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# federal register

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Thursday  
February 20, 1992

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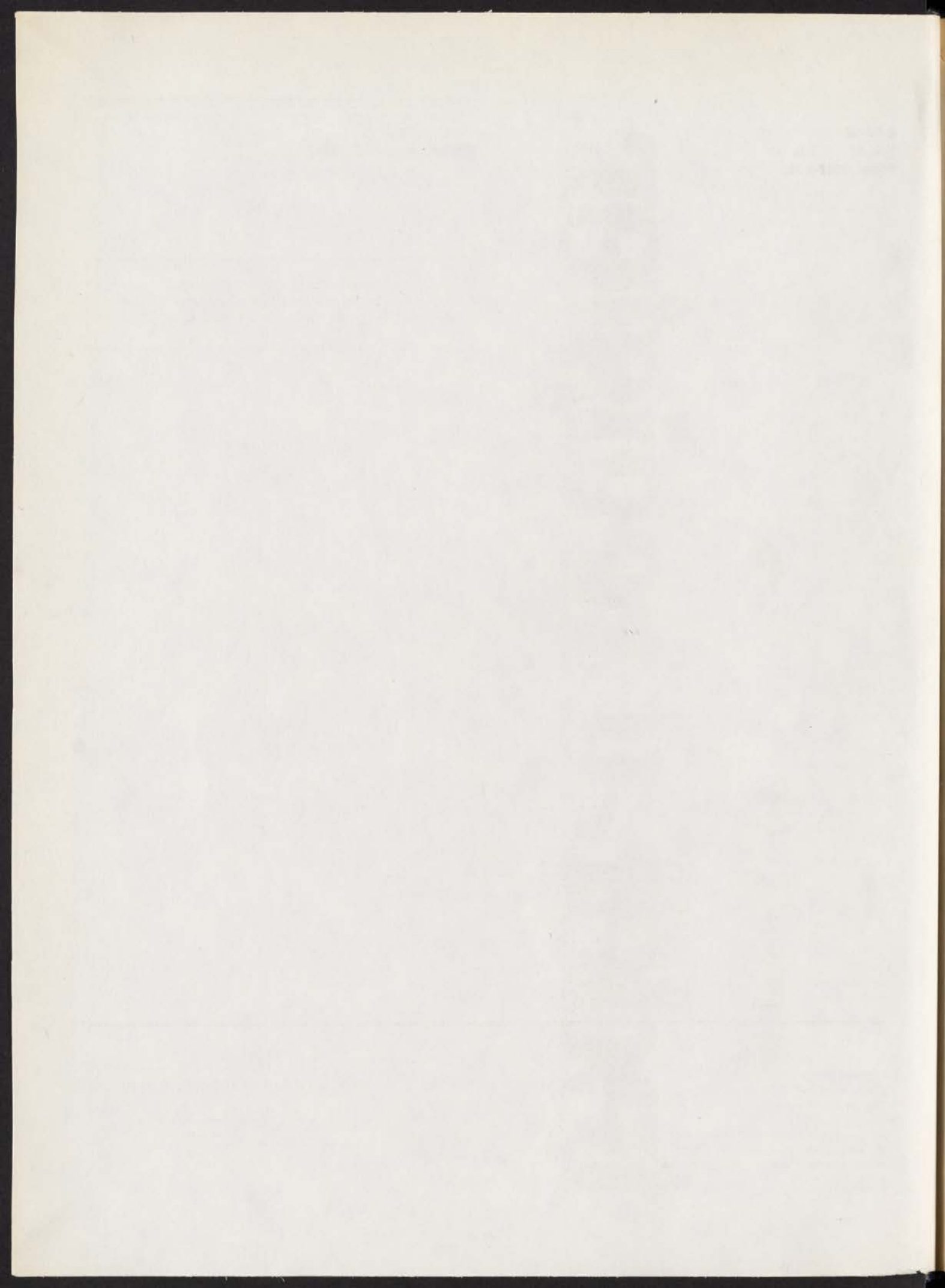
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# Federal Register

## Briefing on How To Use the Federal Register

For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.





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## THE FEDERAL REGISTER

### WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### WASHINGTON, DC

- WHEN:** February 28, at 9:00 a.m.
- WHERE:** Office of the Federal Register,  
First Floor Conference Room,  
1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240.
- DIRECTIONS:** North on 11th Street from  
Metro Center to corner  
of 11th and L Streets



# Contents

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

## Agriculture Department

*See also* Animal and Plant Health Inspection Service;  
Farmers Home Administration; Federal Crop Insurance  
Corporation; Forest Service

### NOTICES

Agency information collection activities under OMB review,  
6085

## Alcohol, Tobacco and Firearms Bureau

### NOTICES

#### Firearms:

Federal firearms privileges restoration; list, 6160

## Animal and Plant Health Inspection Service

### NOTICES

Environmental statements; availability, etc.:

Genetically engineered organisms; field test permits—  
Cotton plants, etc., 6085

Genetically engineered organisms for release into  
environment; permit applications, 6086

## Army Department

### RULES

#### Acquisition regulations:

Default for failure to submit revised delivery schedule,  
6076

## Arts and Humanities, National Foundation

*See* National Foundation on the Arts and the Humanities

## Commerce Department

*See* International Trade Administration; National Oceanic  
and Atmospheric Administration

## Committee for the Implementation of Textile Agreements

### NOTICES

Cotton, wool, and man-made textiles:

Panama, 6099

## Defense Department

*See also* Army Department

### RULES

#### Administrative amendments:

Privacy programs (32 CFR Part 287a etc.), 6074

## Delaware River Basin Commission

### NOTICES

Hearings, 6100

## Employment and Training Administration

### NOTICES

#### Adjustment assistance:

Epson Portland, Inc., 6128

General Electric, 6128

#### Meetings:

Job Training Partnership Act Native American Programs'  
Advisory Committee, 6128

#### Applications, hearings, determinations, etc.:

Sundor Brands, 6129

## Energy Department

*See* Federal Energy Regulatory Commission

## Environmental Protection Agency

### NOTICES

Agency information collection activities under OMB review,  
6109

#### Meetings:

Environmental Policy and Technology National Advisory  
Council, 6110

National Estuary Program; nominations by State Governors,  
6178

Pesticide applicator certification; Federal and State plans:  
South Dakota, 6110

#### Pesticide programs:

Confidential business information and data transfer to  
contractors, 6111

Pesticide registration, cancellation, etc.:

Drexel Chemical Co., 6111

Ethyl parathion; correction, 6168

Pesticides; receipts of State registrations, 6114

#### Superfund program:

Risk assessments; settlement policy, 6116

Toxic and hazardous substances control:

Premanufacture notices receipts, 6119, 6120

#### Water pollution control:

Disposal site determinations—

Wareham, Plymouth County, MA; correction, 6165

## Executive Office of the President

*See* National Drug Control Policy Office

## Farm Credit Administration

### NOTICES

Meetings; Sunshine Act, 6163

## Farmers Home Administration

### RULES

#### Program regulations:

Community programs guaranteed loans, 6067

## Federal Aviation Administration

### RULES

#### Airworthiness directives:

Airbus, 6068

Boeing, 6070

## Federal Communications Commission

### RULES

#### Radio stations; table of assignments:

Iowa, 6074

Maine, 6075

Oregon, 6075

Texas, 6076

#### PROPOSED RULES

#### Radio stations; table of assignments:

Arkansas, 6083

Kentucky, 6084

Kentucky et al., 6083

### NOTICES

Agency information collection activities under OMB review,  
6120

Rulemaking proceedings; petitions filed, granted, denied,  
etc., 6121



**Federal Crop Insurance Corporation****NOTICES**

Standard reinsurance agreement, 6087

**Federal Deposit Insurance Corporation****NOTICES**

Meetings; Sunshine Act, 6163

**Federal Election Commission****NOTICES**

Meetings; Sunshine Act, 6164

**Federal Energy Regulatory Commission****NOTICES**

Environmental statements; availability, etc.:

Iroquois Gas Transmission System, L.P., 6101

Nooksack River Basin et al., WA, 6102

Natural Gas Policy Act:

State jurisdictional agencies tight formation

recommendations; preliminary findings—

Wyoming Oil and Gas Conservation Commission, 6103

*Applications, hearings, determinations, etc.:*

Alaska et al., 6104

El Paso Natural Gas Co., 6105

Equitable Resources Energy Co., 6105

Florida Gas Transmission Co., 6106

Granite State Gas Transmission, Inc., 6106

Northwest Pipeline Corp., 6106

Pike County Citizens for Justice et al., 6106

Southern Energy Co., 6107

Southern Natural Gas Co., 6107

United Gas Pipe Line Co., 6108

U-T Offshore System, 6107

Valero Interstate Transmission Co., 6108

Wisconsin Electric Power Co., 6109

**Federal Highway Administration****NOTICES**

Environmental statements; notice of intent:

Delaware County, PA, 6159

Pulaski and Saline Counties, AR, 6160

**Federal Maritime Commission****NOTICES**

Casualty and nonperformance certificates:

Norwegian Cruise Line, 6121

**Federal Reserve System****PROPOSED RULES**

Credit extensions to insiders and credit reporting

requirements (Regulations O and Y), 6077

**NOTICES**

Meetings; Sunshine Act, 6164

**Federal Trade Commission****RULES**

Appliances, consumer; energy costs and consumption

information used in labeling and advertising:

Residential energy sources; average unit energy costs, 6071

**Food and Drug Administration****RULES**

Animal drugs, feeds, and related products:

Butynorate, etc., 6072

**PROPOSED RULES**

New animal drug regulations; marketing, 6081

New animal drugs and medicated feeds, adverse experiences; recordkeeping and reporting, 6082

**NOTICES**

Animal drugs, feeds, and related products:

Solvay Animal Health, Inc.; approval withdrawn, 6121

GRAS or prior-sanctioned ingredients:

American Maize-Products Co. et al.; correction, 6165

Human drugs:

Oral solid dosage form products (OTC)—

Antacid and acetaminophen combination products; enforcement policy; correction, 6165

Meetings:

Consumer information exchange, 6122

**Forest Service****NOTICES**

Environmental statements; availability, etc.:

Payette National Forest, ID, 6087

**Health and Human Services Department**

See Food and Drug Administration

**Housing and Urban Development Department****PROPOSED RULES**

Federal regulatory review, 6174

**Indian Affairs Bureau****NOTICES**

Grants and cooperative agreements; availability, etc.:

Community and economic development program, 6122

**Interior Department**

See Indian Affairs Bureau; Land Management Bureau

**Internal Revenue Service****RULES**

Income taxes:

Accuracy-related penalty; correction, 6165

Enhanced oil recovery projects certification; correction, 6073

Partnership liabilities treatment; allocations attributable to nonrecourse liabilities; correction, 6072

Procedure and administration:

Insolvent financial institutions affiliated with a

consolidated group; abatements, credits, and refunds

Hearing; correction, 6073

**PROPOSED RULES**

Income taxes:

Enhanced oil recovery credit; correction, 6082

Low income housing credit; monitoring compliance procedure; correction, 6165

**International Trade Administration****NOTICES**

Antidumping:

High-tenacity rayon filament yarn from—

Germany, 6088

Netherlands, 6091

Magnesium, pure and alloy, from—

Canada, 6094

Norway, 6092

Roller chain, other than bicycle, from Japan, 6097

Countervailing duties:

Magnesium, pure and alloy, from—

Canada, 6096

**International Trade Commission****NOTICES**

Agency information collection activities under OMB review, 6125



**Import investigations:**

Dynamic sequential gradient compression devices and component parts, 6126

Portable seismographs from Canada, 6127

**Labor Department**

See Employment and Training Administration; Occupational Safety and Health Administration

**Land Management Bureau****NOTICES****Meetings:**

Susanville District Advisory Council, 6125

**National Credit Union Administration****NOTICES**

Meetings; Sunshine Act, 6164

**National Drug Control Policy Office****NOTICES****Meetings:**

President's Drug Advisory Council, 6131

**National Foundation on the Arts and the Humanities****NOTICES****Meetings:**

Expansion Arts Advisory Panel, 6131

Folk Arts Advisory Panel, 6132

**National Oceanic and Atmospheric Administration****NOTICES****Permits:**

Marine mammals, 6098, 6099

**Nuclear Regulatory Commission****PROPOSED RULES**

Special nuclear material and source material; domestic licensing procedures:

Major materials licensees; report availability, 6077

**NOTICES****Meetings:**

Reactor Safeguards Advisory Committee, 6132

*Applications, hearings, determinations, etc.:*

Duane Arnold Energy Center, 6133

Safety Light Corp. et al., 6136

St. Joseph's Hospital and Medical Center, 6141

**Occupational Safety and Health Administration****NOTICES**

State plans; standards approval, etc.:

Alaska, 6129

**Public Health Service**

See Food and Drug Administration

**Resolution Trust Corporation****NOTICES**

Real property disposal; policy statement, 6143

**Securities and Exchange Commission****NOTICES**

Investment advisers; registration cancellations list, 6145

**Joint industry plan:**

Option market linkage plan, 6146

Self-regulatory organizations; proposed rule changes:

American Stock Exchange, Inc., 6146

Chicago Board Options Exchange, Inc., 6148

Depository Trust Co., 6150

Options Clearing Corp., 6151

*Applications, hearings, determinations, etc.:*

American General Series Portfolio Co. et al., 6153

Short-Term Investments Co. et al., 6156

**Textile Agreements Implementation Committee**

See Committee for the Implementation of Textile Agreements

**Transportation Department**

See Federal Aviation Administration; Federal Highway Administration

**Treasury Department**

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service

**Separate Parts In This Issue****Part II**

Environmental Protection Agency, 6168

**Part III**

Department of Housing and Urban Development, 6174

**Part IV**

Environmental Protection Agency, 6178

**Reader Aids**

Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.



## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

### 7 CFR

1980..... 6067

### 10 CFR

#### Proposed Rules:

30..... 6077  
40..... 6077  
70..... 6077

### 12 CFR

#### Proposed Rules:

215..... 6077  
225..... 6077

### 14 CFR

39 (2 documents)..... 6068,  
6070

### 16 CFR

305..... 6071

### 21 CFR

558..... 6072

#### Proposed Rules:

10..... 6081  
12..... 6081  
16..... 6081  
20..... 6081  
226..... 6082  
500..... 6081  
510 (2 documents)..... 6081,  
6082  
511..... 6081  
514 (2 documents)..... 6081,  
6082

### 24 CFR

#### Proposed Rules:

##### Subtitle A

Ch. I..... 6174  
Ch. II..... 6174  
Ch. III..... 6174  
Ch. IV..... 6174  
Ch. V..... 6174  
Ch. VI..... 6174  
Ch. VII..... 6174  
Ch. VIII..... 6174  
Ch. IX..... 6174  
Ch. X..... 6174  
Ch. XI..... 6174  
Ch. XII..... 6174  
Ch. XIII..... 6174  
Ch. XIV..... 6174  
Ch. XV..... 6174  
Ch. XVI..... 6174  
Ch. XVII..... 6174  
Ch. XVIII..... 6174  
Ch. XIX..... 6174  
Ch. XX..... 6174

### 26 CFR

1 (4 documents)..... 6072,  
6073, 6165  
301..... 6073

#### Proposed Rules:

1 (2 documents)..... 6082,  
6166

### 32 CFR

287a..... 6074  
295c..... 6074  
316..... 6074  
320..... 6074

### 47 CFR

73 (4 documents)..... 6074,  
6076

#### Proposed Rules:

73 (3 documents)..... 6083,  
6084

### 48 CFR

249..... 6076



# Rules and Regulations

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

#### 7 CFR Part 1980

#### Guaranteed Loans

**AGENCY:** Farmers Home Administration, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Farmers Home Administration (FmHA) is amending its regulation to allow Community and Business Programs guaranteed loans where guarantee authority is unavailable when the application is filed to be placed in a pending status rather than disapproved.

This action will enhance the application process and expand and clarify the requirement for eligible lenders for guaranteed loans due to amendments in the law and to allow additional lenders to participate in the guaranteed loan programs. The intended effect of the action will be to promote additional development in rural areas.

**EFFECTIVE DATES:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Beverly I. Craver, Business and Industry Loan Specialist, Farmers Home Administration, USDA, room 6327, 14th and Independence Avenue, SW., Washington, DC. 20250, Telephone (202) 690-3805.

#### SUPPLEMENTARY INFORMATION:

#### Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than \$100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or

geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

#### Intergovernmental Review

The programs impacted by this action are listed in the Catalog of Federal Domestic Assistance under number 10.422, Business and Industrial Loans; 10.423, Community Facilities Loans; and 10.418, Water and Waste Disposal Systems for Rural Communities Loans and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983). FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1901-H.

#### Environmental Impact Statement

The document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that this proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

#### Background

FmHA is implementing Public Law 101-642 which requires application that would otherwise be disapproved due to lack of guarantee authority available to make the loan to be placed in a pending status. When funds become available, the pending applications will be either approved or disapproved within 60 days.

FmHA is revising its regulations to allow insurance companies to be regulated by a State or national insurance regulatory agency to be considered an eligible lender, and to include credit unions to participate as eligible lenders for the Business and Industry guaranteed loan programs if they are subject to credit examination and supervision by either the National Credit Union Association or a State agency.

The titles of two forms to be used with the Disaster Assistance for Rural Business Enterprises (DARBE) guaranteed loans are being corrected in an administrative provision in the regulations.

#### Discussion of Proposed Rule

The proposed rule published in the **Federal Register** on June 20, 1991 (56 FR 28351), provided for a 30-day comment period ending July 22, 1991.

One comment was received from within the Agency which suggested editorial changes be made in the eligible lender section of the regulation. The comment has been incorporated into the final rule. Other non-substantive editorial changes have been made from the proposed rule language for clarity.

#### Lists of Subjects in 7 CFR Part 1980

Loan programs—Agriculture, Business and industry, Community facilities, and Disaster assistance

Accordingly, part 1980, chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

#### PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

**Authority:** 7 U.S.C. 1989; 42 U.S.C. 1480; U.S.C. 301; 7 CFR 2.23 and 2.70

#### Subpart A—General

2. Section 1980.13 is amended by revising the introductory text of paragraph (b) to read as follows:

#### § 1980.13 Eligible lenders.

(b) *An eligible lender is:* Any Federal or State chartered bank, Farm Credit Bank, other Farm Credit System institution with direct lending authority, Bank for Cooperatives, Savings and Loan Associations, Building and Loan Association, or mortgage company that is a part of a bank-holding company. These entities must be subject to credit examination and supervision by either an agency of the United States or a State. Eligible lenders may also include credit unions that are subject to credit examination and supervision by either the National Credit Union Administration or a State agency or an insurance company that is regulated by a State or National insurance regulatory agency. For Farmer Program loans an



Agricultural Credit Corporation which is a subsidiary of any Federal or State chartered bank is an eligible lender. Only those lenders listed in this paragraph are eligible to make and service guaranteed loans. The lenders must be in good standing with their licensing authority and have met licensing, loan making, loan servicing, and other requirements of the state in which the collateral will be located and the loan making and/or loan servicing office requirements in paragraph (b)(3) of this section. A lender must have the capability to adequately service the loan for which a guarantee is requested.

3. Section 1980.47 is amended by revising the section heading and introductory text and adding paragraph (d) as follows:

**§ 1980.47 Time frame for processing applications for loan guarantees.**

All guaranteed loan applications must be approved or disapproved, and the lender notified in writing, not later than 60 days after receipt of a completed application, except as noted in paragraph (d) of this section.

(d) Applications for Community and Business Programs guaranteed loans that would otherwise be disapproved due to the lack of guarantee authority to make the loans will be placed in a pending status. The applications will remain in a pending status until guarantee authority becomes available. Within 60 days after guaranteed authority becomes available, FmHA will notify the applicants of the approval or disapproval of the loan.

4. Section 1980.83(b) is amended by revising the entries for FmHA Form No. 1980-71 and 1980-72 to read as follows:

**§ 1980.83 FmHA Forms.**

(b) \*\*\*

**FmHA**

Form No.	Title of form	Purpose and code
1980-71 ...	Lender's Agreement—Disaster Assistance for Rural Business Enterprise (DARBE) Guaranteed Loans.	Used to establish contract between FmHA and lender on a DARBE guaranteed loan. (2)

**FmHA—Continued**

Form No.	Title of form	Purpose and code
1980-72 ...	Loan Note Guarantee—Disaster Assistance for Rural Business Enterprises (DARBE) Guaranteed Loans.	Used to express terms of the guarantee of a DARBE guaranteed loan. (1)

<sup>1</sup> Code: (1) FmHA use only, (2) FmHA and lender use, \*\*\*.

Dated: December 12, 1991.

La Verne Ausman,  
Administrator, Farmers Home  
Administration.

[FR Doc. 92-3775 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-07-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 91-NM-263-AD; Amendment 39-8177; AD 92-04-06]

**Airworthiness Directives; Airbus Model A320 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to Airbus A320 series airplanes. This action requires repetitive measurements of the deflection of the elevator trailing edge, inspections of the elevator servo controls and their attachments, and replacement of worn or damaged parts, if necessary. This amendment is prompted by reports of in-flight airframe vibrations, resulting from worn bolts and bushings on the elevator servo control attachments. This condition, if not corrected, could result in excessive backlash at the elevator trailing edge, resulting in in-flight airframe vibrations, which could lead to reduced controllability of the airplane.

**DATES:** Effective March 6, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 6, 1992.

Comments for inclusion in the Rules Docket must be received on or before April 20, 1992.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 91-NM-263-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Holt, Standardization Branch, ANM-113, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2140; fax (206) 227-1320.

**SUPPLEMENTARY INFORMATION:** The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, recently notified the FAA that an unsafe condition may exist on Airbus Model A320 series airplanes. The DGAC advises that cases have been reported of in-flight vibrations on airplanes that have accumulated between 150 and 6,240 flight hours. The vibration is the result of worn bolts and bushings on the elevator servo control attachments. This condition, if not corrected, could result in excessive backlash at the elevator trailing edge, resulting in in-flight airframe vibrations, which could lead to reduced controllability of the airplane.

Airbus Industrie has issued Service Bulletin, A320-27-1043, dated October 7, 1991, which describes procedures for measuring the amount of deflection of the elevator trailing edge; inspecting the elevator servo controls and their attachments to detect wear; and replacing damaged parts. The DGAC has classified this service bulletin as mandatory and has issued Airworthiness Directive 91-eaC-023(B), dated December 24, 1991, in order to assure the airworthiness of these airplanes in France.

This airplane model is manufactured in France and type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to a bilateral airworthiness



agreement, the DGAC has kept the FAA totally informed of the above situation. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent excessive backlash at the elevator trailing edge, which could lead to reduced controllability of the airplane. This AD requires measurements of the deflection at each elevator trailing edge and, depending upon the amount of deflection detected, either repeated measurements at specified intervals or replacement parts. This AD also requires inspections to detect wear of the elevator servo controls and their attachments following the occurrence of any elevator-induced in-flight vibrations, and replacement of worn parts. The required actions are to be accomplished in accordance with the service bulletin previously described.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after

the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 91-NM-263-AD." The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

#### PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-04-06. Airbus Industrie: Amendment 39-8177. Docket 91-NM-263-AD.

Applicability: Model A320 Series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent excessive backlash at the elevator, which could lead to reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, measure the deflection at each elevator trailing edge in accordance with paragraph 2.B.(1) of Airbus Service Bulletin A320-27-1043, dated October 7, 1991.

(1) If the measured elevator deflection is less than or equal to 4 mm, (0.16 inch), with zero play, repeat the elevator deflection inspections, in accordance with the following schedule:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 12,000 hours time in-service.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 350 hours time in-service.

(2) If the measured elevator deflection is greater than 4 mm, (0.16 inch), and less than or equal to 10 mm (0.40 inch), repeat the elevator deflection inspections, in accordance with the following schedule:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have been accomplished, repeat the inspection at intervals not to exceed 3,000 hours time in-service.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the inspection at intervals not to exceed 7 calendar days.

(3) If the measured elevator deflection is greater than 10 mm (0.40 inch), and less than or equal to 15 mm (0.60 inch), accomplish the following:

(i) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have not been accomplished, repeat the elevator deflection inspections daily. Within 50 additional hours time in-service, accomplish the procedures of paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin. Prior to further flight, replace worn parts in accordance with the Service Bulletin.

(ii) If the procedures in paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5) in the Service Bulletin have been accomplished, prior to further flight, replace worn parts, in accordance with the Service Bulletin.

(4) If the measured elevator deflection is greater than 15 mm (0.60 inch), prior to further flight, replace worn parts and accomplish the procedures of paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5), in the Service Bulletin.



(b) If worn or out-of-tolerance components of the elevator servo controls and attachments are replaced in accordance with Airbus Industrie Service Bulletin A320-27-1043, paragraphs 2.B.(2), 2.B.(3), 2.B.(4), and 2.B.(5), after such replacement, repeat the elevator deflection inspections at intervals specified in paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(e) The inspections and replacements required by this AD shall be done in accordance with Airbus Service Bulletin A320-27-1043, dated October 7, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(f) This amendment (39-8177), AD 92-04-06, becomes effective March 20, 1992.

Issued at Renton, Washington, on January 29, 1992.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 92-3904 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 91-NM-193-AD; Amendment 39-8176; AD 92-04-05]

#### Airworthiness Directive; Boeing Model 747 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires the installation of an Auxiliary Power Unit (APU) pneumatic duct restraint. This amendment is prompted by two reports of APU pneumatic duct ruptures adjacent to a coupling, which allowed a vertical section of the ducting to separate, pivot, and make contact with an elevator control rod. This condition, if not corrected, could result in damage

to the elevator control rod or complete jamming of the elevator system, which could lead to reduced ability to control the pitch of the airplane.

**DATES:** Effective March 26, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 26, 1992.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

#### FOR FURTHER INFORMATION CONTACT:

Mr. Timothy J. Dulin, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S, FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2675; fax (206) 227-1181.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes, was published in the **Federal Register** on October 21, 1991 (56 FR 52486). That action proposed to require the installation of an APU pneumatic duct restraint.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

One commenter supports the rule as proposed.

Two commenters request that the proposed compliance time be extended to at least 18 months after the effective date of the proposed rule, in lieu of the proposed 12 months. One of these commenters states that a 12-month compliance time would create operator scheduling problems, resulting in an expense to the operators that is considerably higher than the amount estimated in the cost impact analysis of the proposed rule. The FAA does not concur. The FAA has determined that 12 months is an ample amount of time to schedule a modification that requires only 26 work hours per airplane to accomplish. Also, the FAA considers that the proposed 12-month compliance time represents the maximum time allowable for affected airplanes to continue to operate without

compromising safety, prior to installation of the required modification.

The second of these commenters believes that if the compliance time is extended, the impact on flight safety is small, since this commenter's operating manuals do not allow APU operation in flight and the APU in-flight start capability has been removed from its airplanes. Consequently, APU duct failure would be detected and corrected prior to flight. The FAA does not concur totally. Although this commenter's operation manuals do not allow APU operation during flight, all Boeing Model 747 series airplanes are certificated for APU operation in flight. However, the FAA would consider a request for an adjustment of the compliance time, in accordance with the provisions of paragraph (b) of this AD, provided that, for example, the operational constraints limiting APU operation to ground use only is assured until the modification is accomplished.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 854 Boeing Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 232 airplanes of U.S. registry will be affected by this AD, that it will take approximately 26 work hours per airplane to accomplish the required actions, and that the average labor rate is \$55 per work hour. Required parts will cost approximately \$439 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$433,608.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the Rules Docket. A copy of it may be obtained



from the Rules Docket at the location provided under the caption "ADDRESSES."

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

#### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

92-04-05. Boeing: Amendment 39-8176. Docket 91-NM-193-AD.

Applicability: Model 747 series airplanes; line numbers 1 through 856 except line numbers 679 and 685; certificated in any category.

Compliance: Required within one year after the effective date of this AD, unless previously accomplished.

To prevent an Auxiliary Power Unit (APU) pneumatic duct from contacting the elevator control rod in the event of a duct rupture, which could damage the elevator control system and result in a reduced ability to control the pitch of the airplane, accomplish the following:

(a) Install an APU pneumatic duct restraint in accordance with Boeing Alert Service Bulletin 747-36A2087, dated June 6, 1991.

(b) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(d) The installation shall be done in accordance with Boeing Alert Service Bulletin 747-36A2087, dated June 6, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

(e) This amendment (39-8176), AD 92-04-05, becomes effective March 26, 1992. Issued in Renton, Washington, on January 28, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-3905 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-13-M

#### FEDERAL TRADE COMMISSION

#### 16 CFR Part 305

#### Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that Table 1, in § 305.9, which sets forth the representative average unit energy costs for five residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This document revises the table to incorporate the latest figures for average unit energy costs as published by DOE in the Federal Register on January 14, 1992.

DATES: Section 305.9(a) and the revised Table 1 is effective February 20, 1992. The mandatory dates for using these revised DOE cost figures are detailed in the Supplementary Information Section, below.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035 Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201. The rule requires the disclosure of energy efficiency of cost information on labels and in retail sales catalogs for eight categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The cost information obtained

<sup>1</sup> Since its promulgation, the rule has been amended twice to include new product categories—central air conditions (52 FR 46888, Dec. 10, 1987) and fluorescent lamp ballasts (54 FR 1182, Jan. 12, 1989).

by following the test procedures is derived by using the representative average unit energy costs provided by DOE. Table 1 in § 305.9(a) of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE.

On January 14, 1992, DOE published the most recent figures for representative average unit energy costs (57 FR 1461). Accordingly, Table 1 is revised to reflect these latest cost figures as set forth below.

The dates when use of the figures in revised Table 1 becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's rule and/or EPCA are as follows:

#### For 1992 Submissions of Data Under § 305.8 of the Commission's Rule

The new cost figures must be used in all 1992 cost submissions.

#### For Labeling and Advertising of Products Covered by the Commission's Rule

Using 1992 submissions of estimated annual costs of operation based on the 1992 DOE cost figures, the staff will determine whether to publish new ranges. Any products for which new ranges are published must be labeled with estimated annual cost figures calculated using the 1992 DOE cost figures. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the Federal Register. Products that have been labeled prior to the effective date of any range modification need not be relabeled. Advertising for such products will also have to be based on the new costs and ranges beginning ninety days after publication of the new ranges in the Federal Register.

#### Energy Usage Representations Respecting Products Covered by EPCA but Not by the Commission's Rule

Manufacturers of products covered by section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, pool heaters and space heaters) must use the 1992 representative average unit costs for energy in all representations beginning May 20, 1992.

#### List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling.



Reporting and recordkeeping requirements.

#### PART 305—[AMENDED]

Accordingly, 16 CFR part 305 is amended as follows:

1. The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619) (1978), the National Appliance Energy Conservation Act (Pub. L. 100-12) (1987), and the National Appliance Energy Conservation Amendments of 1988 (Pub. L. 100-357) 1988 42 U.S.C. 6294; section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. Section 305.9(a) is revised to read as follows:

#### § 305.9 Representative average unit energy costs.

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this part.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1992)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu <sup>1</sup>
Electricity.....	8.25¢/kWh <sup>2</sup>	\$0.0825/kWh.....	\$24.18
Natural Gas.....	58.00¢/therm <sup>4</sup> or \$5.98/MCF <sup>5,6</sup>	\$0.00000580/Btu.....	5.80
No. 2 heating oil.....	\$1.03/gallon <sup>7</sup>	\$0.00000743/Btu.....	7.43
Propane.....	\$0.74/gallon <sup>8</sup>	\$0.00000810/Btu.....	8.10
Kerosene.....	\$0.89/gallon <sup>9</sup>	\$0.00000659/Btu.....	6.59

<sup>1</sup> Btu stands for British thermal unit.

<sup>2</sup> kWh stands for kilowatt hour.

<sup>3</sup> 1 kWh=3,412 Btu.

<sup>4</sup> 1 therm=100,000 Btu. Natural gas prices includes taxes.

<sup>5</sup> MCF stands for 1,000 cubic feet.

<sup>6</sup> For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,031 Btu.

<sup>7</sup> For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.

<sup>8</sup> For the purposes of this table, 1 gallon of liquid propane has an energy equivalence of 91,333 Btu.

<sup>9</sup> For the purposes of this table, 1 gallon of kerosene has an energy equivalence of 135,000 Btu.

Donald S. Clark,  
Secretary.

[FR Doc. 92-3732 Filed 2-19-92; 8:45 am]

BILLING CODE 6750-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

#### 21 CFR PART 558

#### New Animal Drugs for Use in Animal Feeds; Butynorate, Phenothiazine, Piperazine in Combination

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to remove the entry that reflects approval of two new animal drug applications (NADA's) held by Solvay Animal Health, Inc. The NADA's provide for use of Wormal Tablets and Wormal Granules (butynorate, phenothiazine, and piperazine in combination) as an anthelmintic in chicks and turkeys. In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of the NADA's.

**EFFECTIVE DATE:** June 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD, 20855, 301-295-8749.

**SUPPLEMENTARY INFORMATION:** In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of NADA's 10-335 and 10-447 held by Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616-9989. NADA 10-335 provides for use of Wormal Tablets for individual bird treatment. NADA 10-447 provides for use of Wormal Granules Type A Medicated Article to make Type B and C medicated feeds. Both products contain butynorate, piperazine, phenothiazine, and piperazine in combination.

This final rule removes the entry in 21 CFR 558.4(d) which provides for medicated feed applications containing butynorate, piperazine, and phenothiazine.

#### List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR Part 558 is amended as follows:

#### PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

#### § 558.4 [Amended]

2. Section 558.4 *Medicated feed applications* is amended in paragraph (d) in the Category II table for removing the entry for "Butynorate", and the indented entries for "Piperazine", and "Phenothiazine".

Dated: February 12, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-3865 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

#### DEPARTMENT OF THE TREASURY

##### Internal Revenue Service

#### 26 CFR Part 1

[T.D. 8385]

RIN 1545-AP75

#### Allocations Attributable to Partnership Nonrecourse Liabilities; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

**SUMMARY:** This document contains corrections to Treasury Decision 8385, which was published in the Federal Register for Friday, December 27, 1991 (56 FR 66978). The final regulations relate to the allocation among partners of certain losses or deductions and certain income or gain attributable to partnership nonrecourse liabilities.

**EFFECTIVE DATE:** December 28, 1991.



**FOR FURTHER INFORMATION CONTACT:**

Susan Pace Hamill, (202) 377-9470 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations that are the subject of these corrections adds new regulation § 1.704-2 to the Income Tax Regulations (26 CFR part 1) under section 704(b) of the Internal Revenue Code of 1986 and removes existing § 1.704-1(b)(4)(iv) and § 1.704-1T(b)(4)(iv).

**Need for Correction**

As published, T.D. 8385 contains errors which may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of final regulations (T.D. 8385), which was the subject of FR Doc. 91-30843, is corrected as follows:

**§ 1.704-1 [Corrected]**

1. On page 66983, column 1, in § 1.704-1, in instructional "Par. 8.", line 1, the language "Par. 8. Section 1.704(b)(5) is amended" is corrected to read "Par. 8. Section 1.704-1(b)(5) is amended".

**§ 1.704-2 [Corrected]**

2. On page 66984, column 1, in § 1.704-2(b)(4), line 6, the language "of § 1.1001-2, and a partner (or related)" is corrected to read "of § 1.1001-2, and a partner or related".

3. On page 66984, column 1, in § 1.704-2(c), line 24, the language "necessary, by a pro rata portion of other" is corrected to read "necessary, a pro rata portion of other".

4. On page 66984, column 3, in § 1.704-2(e)(3), second line from the bottom of that paragraph, the language "chargeback requirements of paragraph" is corrected to read "chargeback requirement of paragraph".

5. On page 66985, column 2, in § 1.704-2(f)(5), first line, the language "(5) Additional Exceptions. The" is corrected to read "(5) Additional exceptions. The".

6. On page 66985, column 3, in § 1.704-2(f)(7), Example 1, third line from the bottom of that paragraph, the language "evidenced by the partner's contributions and" is corrected to read "evidenced by the partners' contributions and".

7. On page 66986, column 1, in § 1.704-2(g)(1)(i), line 6, the language "predecessors in interest) up to that time" is corrected to read "predecessors in interest) up to that time."

8. On page 66987, column 2, in § 1.704-2(i)(4), third line from the bottom of that

paragraph, the language "paragraph (f)(5), of this section. See" is corrected to read "paragraph (f)(6), of this section. See".

9. On page 66987, column 3, in § 1.704-2(j)(1)(iii), line 4, the language "deductions exceed the partnership's" is corrected to read "deductions exceeds the partnership's".

10. On page 66988, column 3, in § 1.704-2(k)(5), first line of column 3, the language "(k)(5) of this section apply to determine" is corrected to read "(k)(4) of this section apply to determine".

11. On page 66989, column 1, in § 1.704-2(l)(2)(ii), line 35, the language "beginning on or after December 28, 1991," is corrected to read "beginning on or after December 29, 1988".

12. On page 66989, column 1, in § 1.704-2(l)(2)(ii), last line of that paragraph, the language "28, 1988." is corrected to read "29, 1988."

13. On page 66993, column 2, in § 1.704-2(m), paragraph (ii)(b) of Example 3, line 25, the language "paragraph (g) of this section, A and B's" is corrected to read "paragraph (g) of this section, A's and B's".

14. On page 66993, column 2, in § 1.704-2(m), paragraph (iii) of Example 3, line 6, the language "\$70,000, a depreciation deduction of \$210,000," is corrected to read "\$70,000 a tax depreciation deduction of \$210,000."

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).

[FR Doc. 92-3764 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

**26 CFR Parts 1 and 301**

[T.D. 8387]

RIN 1545-AM74

**Abatements, Credits, and Refunds—  
Special Rules for Insolvent Financial  
Institution That Is or Was Member of  
Consolidated Group; Correction**

**AGENCY:** Internal Revenue Service,  
Treasury.

**ACTION:** Correction to temporary and  
final regulations.

**SUMMARY:** This document contains corrections to Treasury Decision 8387, which was published in the *Federal Register* for Tuesday, December 31, 1991 (56 FR 67487). The temporary regulations in part 301 provide for the payment of income tax refunds in certain situations to a statutory or court-appointed fiduciary of an insolvent financial institution that was a member of a consolidated group in the year to which the refund claim or application for

tentative carryback adjustment relates (instead of payment to the common parent of the consolidated group). The final regulations would provide guidance for determining when a statutory or court-appointed fiduciary can receive payment of a refund from the Internal Revenue Service.

**EFFECTIVE DATE:** January 30, 1992.

**FOR FURTHER INFORMATION CONTACT:**  
Rose L. Williams, (202) 566-3231 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

The temporary and final regulations that are the subject of these corrections add regulations to part 301 and amend regulations in part 1 of title 26 of the Code of Federal Regulations, respectively, under sections 1502, 6402(i), and 6411(c) of the Internal Revenue Code.

**Need for Correction**

As published, T.D. 8387 contains errors which may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of this regulation (T.D. 8387), which was the subject of FR Doc. 91-31015, is corrected as follows:

1. On page 67489, column 1, § 1.6411-4, is corrected to read:

**§ 1.6411-4 Consolidated groups.**

For further rules applicable to consolidated groups, see § 1.1502-78. For further rules applicable to consolidated groups that include insolvent financial institutions, see § 301.6402-7T of this chapter.

**§ 301.6402-7T [Corrected]**

2. On page 67490, column 2, in § 301.6402-7T(d)(2)(iii), line 6 from the top of the column, the language "Service as agent under of paragraph" is corrected to read "Service as agent under paragraph".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).

[FR Doc. 92-3765 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

**26 CFR Part 1**

[T.D. 8384]

RIN 1545-AP82

**Certification of Enhanced Oil Recovery  
Projects; Correction**

**AGENCY:** Internal Revenue Service,  
Treasury.



**ACTION:** Correction to temporary regulations.

**SUMMARY:** This document contains corrections to Treasury Decision 8384, which was published in the Federal Register for Monday, December 30, 1991 (56 FR 67176). The temporary regulations provide procedures whereby an operator or designated owner of an enhanced oil recovery project certifies to the Internal Revenue Service that a project satisfies the requirements of section 43(c) of the Internal Revenue Code.

**EFFECTIVE DATE:** December 30, 1991.

**FOR FURTHER INFORMATION CONTACT:** Brenda M. Stewart, (202) 566-4919 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations that are the subject of these corrections amend the Income Tax Regulations (26 CFR part 1) to provide procedures whereby an operator or designated owner of an enhanced oil recovery project certifies to the Internal Revenue Service that a project meets the definition of a qualified enhanced oil recovery project under section 43 of the Internal Revenue Code. The temporary regulations reflect the addition of section 43(c)(2)(B) to the Code by section 11511(A) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508.

**Need for Correction**

As published, T.D. 8384 contains typographical errors that, if not corrected, might cause confusion to taxpayers and practitioners.

**Correction of Publication**

Accordingly, the publication of temporary regulations (T.D. 8384), which was the subject of FR Doc. 91-30873, is corrected as follows:

**§ 1.43-3T Corrected.**

1. On page 67177, column 3, §§ 1.43-3T(b)(3)(ii) and 1.43-3T(c)(3)(ii), line 2 of each paragraph, the language "project, including its geographical" is corrected to read "project including its geographic".

Cynthia E. Grigsby,  
Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).

[FR Doc. 92-3762 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Parts 287a, 295c, 316, and 320**

**Privacy Programs**

**AGENCY:** Office of the Secretary, DoD.

**ACTION:** Final rule.

**SUMMARY:** This makes administrative changes within Chapter I of title 32 of the Code of Federal Regulations for ease of use.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone 703-697-4111.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 32 CFR Parts 287a, 295(c), 316, and 320**

**Privacy**

Accordingly, under the authority of 10 U.S.C. 131, 32 CFR chapter I, is amended as follows:

1. 32 CFR part 287a is redesignated as part 316; 295c is redesignated as 320 and these newly redesignated parts are transferred into subchapter O.

**PART 316—[REDESIGNATED FROM PART 287a AND AMENDED]**

2. The authority citation for newly redesignated part 316 is revised to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1986 (5 U.S.C. 552a)

**§ 316.3 [Amended]**

3. Newly redesignated § 316.3 is amended by revising "286a" to read "310"

**§ 316.4 [Amended]**

4. Newly redesignated § 316.4 is amended by revising "286a.6" to read "310.6"

**§ 316.6 [Amended]**

5. Newly redesignated § 316.3 is amended in paragraph (a) by revising "286a" to read "310"; paragraph (b) by revising "286a.5" to read "310.5"; paragraph (c)(1) by revising "286a.9" to read "310.9"; paragraph (c)(3)(xvi) by revising "286a" to read "310"; paragraph (d)(1) by revising "286a.8" to read "310.8"; paragraph (d)(2) by revising "286a.5" to read "310.5"; paragraph (e)(2) by revising "286a.9(b)" to read "310.9(b)"; paragraph (f)(2) by revising "286a.6" to read "310.6"

**PART 320—[REDESIGNATED FROM PART 295c AND AMENDED]**

6. The authority citation for newly redesignated part 320 is revised to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1986 (5 U.S.C. 552a)

**§ 320.3 [Amended]**

7. Newly redesignated § 320.3 is amended in paragraph (a) by revising "§ 295c.2" to read "§ 320.2" and paragraph (c) by revising "§ 295c.3(e)" to read "§ 320.3(e)"

**§ 320.4 [Amended]**

8. Newly redesignated § 320.4 is amended in paragraphs (b)(1) and (b)(2) by revising "§ 295c.3(e)" to read "§ 320.3(e)" and paragraph (c)(1)(iii) by revising "§ 295c.9" to read "§ 320.9"

**§ 320.6 [Amended]**

9. Newly redesignated § 320.6(a) is amended by revising "§ 295c.7" to read "§ 320.7"

Dated: February 13, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92-3821 Filed 2-19-92; 8:45 am]

BILLING CODE 3810-01-M

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 89-379; RM-6618, RM-6657, RM-6793, RM-7159, RM-6670]

**Radio Broadcasting Services; Atlantic, Audubon, Fairfield, Hudson, and Newton, IA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 243C1 to Audubon, Iowa, and Channel 241A to Hudson, Iowa. See 54 FR 37133, published September 7, 1989. This document also denies proposals for a Channel 243C2 allotment at Atlantic, Iowa, and a proposal for a Channel 241C2 upgrade at Newton, Iowa. Finally, this document dismisses a proposal for a Channel 240C2 upgrade at Fairfield, Iowa. The reference coordinates for the Channel 243C1 allotment at Audubon, Iowa, are 41-30-04 and 94-42-09. The reference coordinates for the Channel 241A allotment at Hudson, Iowa, are 42-24-20 and 92-35-30. With this action, this proceeding is terminated.



**DATES:** Effective Date: March 30, 1992. The window periods for filing applications for the Channel 243C1 allotment at Audubon, Iowa, and the Channel 241A allotment at Hudson, Iowa, will open on March 31, 1992, and close on April 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 89-379, adopted February 5, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Channel 243C1, Audubon, and by adding Channel 241A, Hudson.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3872 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 91-268; RM-7790]

#### Radio Broadcasting Services; Fort Kent, ME

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel \*293C3 to Fort Kent, Maine, and reserves the channel for noncommercial educational use in response to a petition filed by the University of Maine System. See 56 FR 47717, September 20, 1991. The coordinates for Channel \*293C3 are 47-15-30 and 68-33-30. Canadian

concurrence has been obtained for this channel as a specially negotiated short-spaced allotment. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 91-268, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maine, is amended by adding Channel \*293C3, Fort Kent.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3876 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 90-494; RM-7473; RM-7571]

#### Radio Broadcasting Services; Cottage Grove and Brownsville, OR

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Paul C. Bjornstad, allots Channel 263A to Cottage Grove, Oregon, as the community's second local FM service. At the request of Eads Broadcasting Corp., the Commission substitutes Channel 272C1 for Channel 272A at Brownsville, Oregon, and modifies Station KGAL-FM's construction permit to specify operation on the higher class channel. See 55 FR

46233, November 2, 1990. Channel 263A can be allotted to Cottage Grove in compliance with the Commission's minimum distance separation requirements with a site restriction of 6 kilometers (3.7 miles) south to avoid a short-spacing to Station KLCC, Channel 209C, Eugene, Oregon, at coordinates North Latitude 43-44-45 and and West Longitude 123-02-25. Channel 272C1 can be allotted to Brownsville, Oregon, at the transmitter site specified in Station KGAL-FM's construction permit, at coordinates 44-26-11 and 122-59-05. With this action, this proceeding is terminated.

**DATES:** Effective March 30, 1992. The window period for filing applications for Channel 263A at Cottage Grove, Oregon, will open on March 21, 1992, and close on April 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 90-494, adopted February 4, 1992, and released February 12, 1992.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

1. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 272A and adding Channel 272C1 at Brownsville, and adding Channel 263A at Cottage Grove.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3873 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M



**47 CFR Part 73**

[MM Docket No. 91-275; RM-7786]

**Radio Broadcasting Services; Franklin, TX****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Franklin Community Broadcasting, permittee of Station KPXQ(FM), Channel 270A, Franklin, Texas, substitutes Channel 270C3 for Channel 270A at Franklin, Texas, and modifies KPXQ(FM)'s construction permit to specify operation on the higher powered channel. See 56 FR 50549, October 7, 1991. Channel 270C3 can be allotted to Franklin in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.5 kilometers (6.5 miles) southeast to accommodate Franklin Community's desired site. The coordinates for Channel 270C3 at Franklin are North Latitude 30-56-34 and West Longitude 96-25-59. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** March 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 91-275, adopted February 5, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets

Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 270A and adding Channel 270C3 at Franklin.

Federal Communications Commission.

Michael C. Ruger,

*Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 92-3870 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF DEFENSE****Department of the Army****48 CFR Part 249****Acquisition Regulations: Default for Failure To Submit Revised Delivery Schedule**

**AGENCY:** Department of the Army, DoD.

**ACTION:** Final rule, removal of interim rule.

**SUMMARY:** The Department of the Army is removing § 249.402-4, Default for failure to submit revised delivery schedule, published in error as an interim rule at 57 FR 533, January 7, 1992. The Department of the Army plans to publish a proposed rule in the Federal Register at a later date.

**EFFECTIVE DATE:** Upon publication in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:**

Mr. James Scuro, U.S. Army Communications-Electronics Command, Fort Monmouth, NJ 07703-5010, (908) 532-1143.

**List of Subjects in 48 CFR Part 249**

Government procurement.

Therefore, 48 CFR 249 is amended as follows:

1. The authority citation for part 249 continues to read as follows:

**Authority:** 5 U.S.C. 301, 10 U.S.C. 2202, Defense FAR Supplement 201.301.

**PART 249—TERMINATION OF CONTRACTS****§ 249.402-4 [Removed]**

2. Section 249.402-4 is removed.

Kenneth L. Denton,

*Army Federal Register Liaison Officer.*

[FR Doc. 92-3842 Filed 2-9-92; 8:45 am]

BILLING CODE 3710-08-M



## Proposed Rules

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

### NUCLEAR REGULATORY COMMISSION

#### 10 CFR PARTS 30, 40, AND 70

#### Proposed Method for Regulating Major Materials Licensees; Availability of Nureg Report

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Availability and request for comments.

**SUMMARY:** The Nuclear Regulatory Commission has published for availability and comment its report on "Proposed Method for Regulating Major Materials Licensees" (NUREG-1324). The report presents the findings by the Materials Review Task Force and proposes a revised method for regulating major materials licensees.

**DATES:** Comment period expires April 30, 1992. Comments received after this date will be considered if it is practical to do so, but NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** Mail comments to the Chief, Regulatory Publication Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of NUREG-1324 is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555. A copy of NUREG-1324 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies are also available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

**FOR FURTHER INFORMATION CONTACT:** Charles J. Haughney, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-3328.

**SUPPLEMENTARY INFORMATION:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment its report, "Proposed Method for Regulating Major Materials Licensees" (NUREG-1324). The Director, Office of Nuclear Material Safety and Safeguards, appointed a Materials Regulatory Review Task Force to conduct a broad-based review and critique of the Commission's current regulatory program for fuel cycle and large material plants. The task force defined the components and subcomponents of an ideal regulatory system for these types of plants and compared them to the components and subcomponents of the existing regulatory system to identify missing components that are important to safeguard operation. The report presents the findings and proposes recommendations based on the comparison.

In the report, the task force proposes a revised method for regulating major materials licensees. The method was developed from a completely fresh point of view. The task force was directed to propose an ideal method for regulating fuel cycle and material licensees, unfettered by an existing regulations or regulatory guidance, concerns about backfitting, or limitations on resources of the NRC or the licensees. Given this charter, the task force described a regulatory method that is admittedly highly idealistic.

The NRC has limited resources, however, and must establish priorities for any proposed actions to improve the existing regulatory method. Two NRC managers, who were not on the task force, independently analyzed this report and suggested a basis for assigning priorities to the recommendations in the report. Appendix A to this report includes the manager's analysis and their basis.

The task force is particularly interested in obtaining the following types of comments on the report and on appendix A of the report:

1. Which of the recommendations should, or should not, be adopted and why?
2. Which of the recommendations should be modified, and, if any should, how and why?
3. What priority should be assigned each recommendation to be implemented and why?

While the NRC has not made a decision to adopt any of the recommendations, the staff finds some of them important and would like to implement these recommendations if sufficient resources are available.

Dated at Rockville, Maryland, this 12th day of February, 1992.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Source Containment and Devices Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 92-3924 Filed 2-19-92; 8:45 am]

BILLING CODE 7590-01-M

### FEDERAL RESERVE SYSTEM

#### 12 CFR Parts 215 and 225

[Docket No. R-0747]

#### Regulation O—Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks; Regulation Y—Bank Holding Companies and Change in Bank Control

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board is proposing to revise Regulations O and Y to conform the regulations to the amendments of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) made by section 306 of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"). Section 22(h) restricts the amount and terms of extensions of credit from a bank to its executive officers, directors, and principal shareholders and to any company or political campaign controlled by a bank's executive officers, directors, or principal shareholders. The Board promulgated Regulation O to implement this statute.

The proposal would revise Regulation O to implement the amendments of section 22(h) made by the FDICIA and to make certain technical corrections. The proposal also would revise Regulation Y to implement a loan reporting requirement created by the FDICIA that applies to executive officers and directors of certain bank holding companies.



**DATES:** Comments must be received by March 23, 1992.

**ADDRESSES:** Comments, which should refer to Docket No. R-0747, may be mailed to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, to the attention of Mr. William W. Wiles, Secretary; or delivered to the Board's Mail Room between 8:45 a.m. and 5:15 p.m., or to the Board's Security Control Room outside of those hours. Both the Mail Room and the Security Control Room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in room B-1122 between 9 a.m. and 5 p.m. weekdays, except as provided in § 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8.

**FOR FURTHER INFORMATION CONTACT:** Andrew Karp, Attorney (202/452-3554), Legal Division; Stephen M. Lovette, Manager (202/452-3622), or William G. Spaniel (202/452-3469), Senior Financial Analyst, Division of Banking Supervision and Regulation. For the hearing impaired only, Telecommunications Device for the Deaf ("TDD"), Dorothea Thompson (202/452-3544).

**SUPPLEMENTARY INFORMATION:** On December 19, 1991, the President signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA").<sup>1</sup> Section 306 of the FDICIA amends section 22(h) of the Federal Reserve Act (12 U.S.C. 375b).<sup>2</sup> Section 22(h) restricts the amount and terms of extensions of credit from a bank to its executive officers, directors, and principal shareholders (collectively, "insiders") and to any company or political campaign controlled by an insider ("related interests"). The Board promulgated Regulation O to implement this statute. In general, section 22(h):

1. Requires a bank's board of directors to approve any extension of credit to an insider or a related interest in excess of a threshold amount (generally the higher of \$25,000 or five percent of the bank's capital and unimpaired surplus, up to \$500,000);
2. Prohibits any extension of credit to an insider or a related interest on preferential terms;
3. Limits the amount a bank may lend to each of its executive officers and principal shareholders and their related interests; and

4. Prohibits overdrafts to executive officers and directors (but not to principal shareholders).

Section 306 of the FDICIA replaces the language of section 22(h) with the provisions of the Board's Regulation O without making substantial changes. Specifically, section 306 makes the following substantive modifications of and additions to section 22(h):

1. Requires that, when lending to an insider, a bank follow credit underwriting procedures that are "not less stringent than those applicable to comparable transactions by the bank with (persons outside the bank)."
2. Subjects directors (and their related interests) to the same aggregate lending limit currently applicable to executive officers and principal shareholders (and of their related interests) under section 22(h).<sup>3</sup>

Previously, section 22(h) did not limit the amount directors and their related interests could borrow from their banks.

3. Creates a new limitation on the total amount a bank may lend in the aggregate to its insiders and their related interests as a class. In general, this limit is equal to the bank's unimpaired capital and surplus.

4. Defines the term "member bank" to include any subsidiary of the member bank, clarifying that an extension of credit from a subsidiary of a member bank is subject to the same insider restrictions as an extension credit from the member bank itself.

5. Tightens the definition of principal shareholder for banks located in small communities. Currently, a principal shareholder is a person who owns or controls more than 10 percent of a class of the voting shares of a bank, except for banks located in communities with populations of less than 30,000, in which case the amount is 18 percent. The 10 percent definition now applies to all banks, regardless of the size of the community where the bank is located.

6. Covers all companies that owns banks, regardless of whether the company is technically a bank holding company.

7. Prohibits insiders from knowingly receiving (or knowingly permitting their related interests to receive) any extension of credit not authorized by section 22(h).

8. Defines the terms "company," "control," "executive officer,"

<sup>3</sup> This amount is 15 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured and an additional 10 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured. In calculating this limit, all of the bank's loans to the insider and the insider's related interests are aggregated.

"extension of credit," "related interest," and "subsidiary." Each definition is consistent with the corresponding definitions in current Regulation O.

9. Requires executive officers and directors of member banks and bank holding companies without publicly traded stock to report to their institutions annually the outstanding amount of any loan that is secured by shares of the insider's institution.

The proposal would revise Regulation O to implement the amendments of section 22(h) made by the FDICIA and to make certain technical corrections. The proposal does not modify the present regulation where the statutory amendments track the present regulatory language.<sup>4</sup> The proposal also would revise Regulation Y to implement a loan reporting requirement created by the FDICIA that applies to executive officers and directors of certain bank holding companies.

The FDICIA provides that amendments made by the FDICIA do not affect the validity of any extension of credit or other transaction lawfully entered into on or before the effective date of the FDICIA amendments. The effective date of the amendments relating to Regulation O is the earlier of (i) the date on which the required revisions to Regulation O become effective or (ii) 150 days after the date of enactment of the FDICIA.

As noted above, the FDICIA amendments establish a new limit on the total amount a member bank may lend to its insiders as a class. The statute generally restricts that amount to an amount no greater than the bank's unimpaired capital and surplus, but authorizes the Board to (i) set a more stringent general limit and (ii) make an exception to the limit for banks with deposits of less than \$100 million if the Board determines that the exception would be "important to avoid constricting the availability of credit in small communities or to attract directors to such banks." The statute provides that a limit implemented under the small bank exception may not exceed 200 percent of the bank's unimpaired capital and surplus.

The proposed total limit—100 percent of a bank's unimpaired capital and unimpaired surplus—is the same as provided in the statute. The Board requests comment regarding whether to provide an exception to the general limit

<sup>1</sup> Pub. L. No. 102-242, 105 Stat. 2236 (1991).

<sup>2</sup> The FDICIA requires the Board to promulgate regulations that implement the FDICIA amendments by April 17, 1992.

<sup>4</sup> Thus, for example, the existing regulatory definitions of "control," "executive officer," "extension of credit," "overdraft," "related interest," and "subsidiary" remain unchanged, as the new statutory definitions are fully consistent with the present regulatory definitions.



for banks with deposits of less than \$100 million. In particular, the Board requests comment on whether a 100 percent limit would inhibit unduly lending by small banks or limit the availability of directors for such banks, especially with respect to banks that may rely on certain exceptions to the National Bank Act's loans to one borrower rules (such as the exceptions for loans secured by bills of lading, warehouse receipts or similar documents covering marketable staples, or loans secured by livestock, or dairy cattle). In connection with these requests, the Board requests that commenters submit specific data as to the effect of the new aggregate limit.

The proposal also contains several technical revisions to conform Regulation O with section 306 and to correct existing ambiguities. In this respect, the proposal would, for example:

1. Clarify that, where Regulation O provides more liberal limits on member bank extensions of credit to their executive officers to finance a residence, the residence must be the executive officer's primary residence.
2. Modify the requirement that member bank loans to executive officers be "made subject to the condition that the extension of credit will, at the option of the member bank, become due and payable" to clarify that the condition must be in writing.
3. Replace the term "bank" with the term "insured depository institution" where appropriate to reflect statutory usage.
4. Provide a dedicated definition of foreign bank that is the same as the existing definition that is provided in the definition of member bank.
5. Replace the term "capital stock" with "unimpaired capital" where appropriate to reflect statutory usage.
6. Add a date specification to the calculation of valuation reserves for purposes of determining a bank's unimpaired capital and unimpaired surplus under Regulation O.
7. Clarify the definition of extension of credit on which a party may be liable.

#### Section-by-Section Analysis

The following describes the proposed revisions to Regulation O.

**Sections 215.2(a), 215.9:** The proposed revision replaces the term "bank" with the term "depository institution" to reflect statutory usage.

**Sections 215.2(c), (d), and (k), 215.4(c):** The proposed revision replaces the term "bank holding company" with the term "company" and removes the reference to the statutory definition of bank holding company.

**Section 215.2(e):** The proposed revision creates a new paragraph (e) that relocates the existing Regulation O definition of the term "foreign bank." The definition, which remains unchanged, was previously part of the Regulation O definition of "member bank."

**Section 215.2(e) through (1):** The proposed revision redesignates these paragraphs as § 215.2(f) through (m) to accommodate new § 215.2(e).

**Section 215.2(g):** The proposed revision replaces the regulatory term "capital stock" with the statutory term "unimpaired capital" and adds a date specification to the definition of valuation reserves for purposes of calculating a bank's capital.

**Section 215.2(h):** The proposed revision clarifies that the term "member bank" includes any subsidiary of the member bank.

**Section 215.2(k):** The proposed revision replaces the phrase "an individual or company" with the term "person" to reflect statutory usage. The proposed revision also strikes the sentence that implemented the control standard for determining "principal shareholder" of banks located in communities with populations of less than 30,000 persons.

**Section 215.2(1):** The proposed revision adds the phrase "of a person" to the definition of "related interest" to reflect statutory usage.

**Section 215.3(a)(4):** The proposed revision replaces the term "person" with the phrase "an executive officer, director, or principal shareholder of the acquiring member bank" to clarify that the definition applies when the party liable is a bank insider.

**Section 215.4(a)(1):** The proposed revision adds to the existing qualitative requirements the new requirement that, in extending credit to an insider, a member bank follow credit underwriting procedures no less stringent than those prevailing for comparable transactions with non-insiders. The proposed revision also replaces the term "repayment" with the term "default" to characterize more accurately the risk described.

**Section 215.4(b)(2):** The proposed revision reorganizes section 215.4(b) by creating a new subparagraph (2) to contain the existing \$500,000 limitation. The limitation provision is not modified substantively.

**Section 215.4(b)(2) and (3):** The proposed revision redesignates existing § 215.4(b)(2) and (3) as 215.4(b)(3) and (4) to accommodate new § 215.4(b)(2).

**Section 215.4(c):** The proposed revision adds the term "directors" to the list of persons subject to the aggregate

lending limit. This reflects the FDICIA revision to section 22(h) that subjects directors to the section 22(h) aggregate lending limit.

**Section 215.4(e):** The proposed revision creates a new paragraph (e). This paragraph implements the new aggregate limit on extensions of credit to all insiders as a class mandated by the FDICIA.

**Section 215.5(a), footnote 4:** The proposed revision strikes the first sentence to reflect the FDICIA revisions that revise section 22(g) of the Federal Reserve Act to cover non-member insured banks.

**Section 215.5(c)(3):** The proposed revision adds the term "the primary" to clarify that the amount limit under this subparagraph applies to an executive officer's primary residence.

**Section 215.5(d):** The proposed revision adds the phrase "in writing" after the term "condition" to clarify that the condition required by this subparagraph must be in writing. The proposed revision also adds the term "corresponding" before the phrase "category of credit."

**Section 215.6:** The proposed revision creates a new § 215.6 that implements FDICIA revisions to section 22(h) that prohibit an insider from knowingly receiving (or knowingly permitting the insider's related interest from receiving) an extension of credit that is not authorized under Regulation O.

**Section 215.5 through 215.9:** The proposed revision redesignates these sections as §§ 215.7 through 215.10 to accommodate new § 215.6.

**Section 215.9:** The proposed revision adds the term "corresponding" before the phrase "category of credit."

**Section 215.11:** The proposed revision redesignates § 215.11 as § 215.12 and adds a new § 215.11 to implement the FDICIA requirement that executive officers and directors of certain member banks report certain credits to the board of directors of the executive officer's or director's member bank.

The following describes the proposed revision to Regulation Y.

**Section 225.4(f):** The proposed amendment adds a new paragraph (f) to implement the FDICIA requirement that executive officers and directors of certain bank holding companies report certain credits to the board of directors of the executive officer's or director's bank holding company.

#### Regulatory Flexibility Act Analysis

The Federal Reserve Board does not believe that adoption of the proposed amendments would have a significant economic impact on a substantial



number of small business entities (in this case, small banking organizations).

#### List of Subjects

##### 12 CFR Part 215

Credit, Federal Reserve System, Reporting and recordkeeping requirements, Security measures.

##### 12 CFR Part 225

Administrative practice and procedure, Appraisals, Banks, Banking, Capital adequacy, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities, State member banks.

For the reasons set forth in this proposed rule, and pursuant to the Board's authority under sections 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 375a and 375b), section 5(b) of the Bank Holding Company Act (12 U.S.C. 1844(b)), and section 306 of the Federal Deposit Insurance Corporation Improvement Act (Pub. L. No. 102-242, 105 Stat. 2236 (1991)), the Board is proposing to amend 12 CFR part 215 subpart A and 12 CFR part 225 subpart A to read as follows:

#### PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS

##### Subpart A—Loans by Member Banks to Their Executive Offices, Directors, and Principal Shareholders

1. The authority citation for part 215 continues to read as follows:

Authority: Sections 11(i), 22(g) and 22(h) of the Federal Reserve Act (12 U.S.C. 248(i), 375a, and 375(b)) and 12 U.S.C. 1817(k)(3).

2. In part 215, the footnotes are redesignated as shown below:

Section and paragraph	Current No.	New No.
§§ 215.4(c).....	3	( <sup>1</sup> ).
215.4(d).....	4	3
215.5(a).....	5	4
215.8.....	6	5
215.9.....	7	6
215.10.....	8	7

<sup>1</sup> Removed.

3. 12 CFR 215.2 is amended by revising paragraph (a), redesignating paragraphs (e) through (l) as paragraphs (f) through (m), adding a new paragraph (e), and revising redesignated paragraphs (g), (h), (k), and (l) to read as follows:

#### § 215.2 Definitions.

(a) "Company" means any corporation, partnership, trust (business or otherwise), association, joint venture,

pool syndicate, sole proprietorship, unincorporated organization, or any other form of business entity not specifically listed herein. However the term does not include (1) an insured depository institution (as defined in 12 U.S.C. 1813) or (2) a corporation the majority of the shares of which are owned by the United States or by any State.

(e) "Foreign bank" has the meaning given in 12 U.S.C. 3101(7).

(g) The "lending limit" for a member bank is an amount equal to the limit of loans to a single borrower established by section 5200 of the Revised Statutes,<sup>2</sup> 12 U.S.C. 84. This amount is 15 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are not fully secured, and additional 10 percent of the bank's unimpaired capital and unimpaired surplus in the case of loans that are fully secured by readily marketable collateral having a market value, as determined by reliable and continuously available price quotations, at least equal to the amount of the loan. The lending limit also includes any higher amount that are permitted by section 5200 of the Revised Statutes for the types of obligations listed therein as exceptions to the limit. A member bank's unimpaired capital and unimpaired surplus equals the sum of (1) the "total equity capital" of the member bank reported on its most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3), (2) any subordinated notes and debentures approved as an addition to the member bank's capital structure by the appropriate federal banking agency, and (3) any valuation reserves created by charges to the member bank's income as reported on its most recent consolidated report of condition filed under 12 U.S.C. 1817(a)(3).

(h) "Member bank" means any banking institution that is a member of the Federal Reserve System, including any subsidiary of a member bank. The term does not include any foreign bank that maintains a branch in the United States, whether or not the branch is insured (within the meaning of 12 U.S.C. 1813(s)) and regardless of the operation of 12 U.S.C. 1813(h) and 12 U.S.C. 1838(j)(2).

(k) "Principal shareholder" means a person (other than an insured bank) that

directly or indirectly, or acting through or in concert with one or more persons, owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a member bank or company. Shares owned or controlled by a member of an individual's immediate family are considered to be held by the individual. A principal shareholder of a member bank includes (1) a principal shareholder of a company of which the member bank is a subsidiary and (2) a principal shareholder of any other subsidiary of that company.

(l) "Related interest" of a person means (1) a company that is controlled by that person or (2) a political or campaign committee that is controlled by that person or the funds or services of which will benefit that person.

4. 12 CFR 215.3 is amended by revising paragraph (a)(4) to read as follows:

#### § 215.3 Extension of credit.

(a) \* \* \*

(4) An acquisition by discount, purchase, exchange, or otherwise of any note, draft, bill of exchange, or other evidence of indebtedness upon which an executive officer, director or principal shareholder of the acquiring member bank may be liable as maker, drawer, endorser, guarantor, or surety;

5. 12 CFR 215.4 is amended by revising paragraphs (a)(1) and (c), and adding paragraph (e) to read as follows:

#### § 215.4 General prohibitions.

(a) \* \* \*

(1) is made on substantially the same terms, (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the bank with other persons that are not covered by this part and who are not employed by the bank, and (2) does not involve more than the normal risk of default or present other unfavorable features.

(c) *Aggregate lending limit.* No member bank may extend credit to any of its executive officers, directors, or principal shareholders or to any related interest of that person in an amount that, when aggregated with the amount of all other extensions of credit by the member bank to that person and to all related interests of that person, exceeds the lending limit of the member bank specified in § 215.2(g) of this part. This prohibition does not apply to an extension of credit by a member bank to

<sup>2</sup> Where state law establishes a lending limit for a state member bank that is lower than the amount permitted in section 5200 of the Revised Statutes, the lending limit established by applicable state laws shall be the lending limit for the state member bank.



a company of which the member bank is a subsidiary or to any other subsidiary of that company.

(e) *Aggregate limit on extensions of credit to all executive officers, directors, and principal shareholders.* A member bank may extend credit to any executive officer, director or principal shareholder, or to any related interest of such a person, if the extension of credit is in an amount that, when aggregated with the amount of all outstanding extensions of credit by that bank to its executive officers, directors or principal shareholders and the related interests of those persons would not exceed the bank's unimpaired capital and unimpaired surplus (as defined at § 215.2(g)).

6. 12 CFR 215.5 is amended by revising redesignated footnote 4 in paragraph (a), and paragraph (c)(2) and (d) to read as follows:

**215.5 Additional restrictions on loans to executive officers of member banks.**

(a) \* \* \*

(c) \* \* \*

(2) in any amount of finance the purchase, construction, maintenance, or improvement of the primary residence of the executive officer, if the extension of credit is secured by a first lien on the residence and the residence is owned (or expected to be owned after the extension of credit) by the executive officer; and

(d) Any extension of credit by a member bank to any of its executive officers shall be: (1) Promptly reported to the member bank's board of directors; (2) in compliance with the requirements of § 215.4(a) of this part; (3) preceded by the submission of a detailed current financial statement of the executive officer; and (4) made subject to the condition in writing that the extension of credit will, at the option of the member bank, become due and payable at any time that the officer is indebted to any bank or banks in an aggregate amount greater than the amount specified for a corresponding category of credit in paragraph (c) of this section.

7. 12 CFR 215.11 is redesignated as § 215.13, §§ 215.6 through 215.10 are redesignated as §§ 215.7 through 215.11, respectively, and a new § 215.6 is added to read as follows:

**§ 215.6 Prohibition of knowingly receiving unauthorized extension of credit.**

No executive officer, director, or principal shareholder of a member bank shall knowingly receive (or knowingly permit any of that person's related interests to receive) from a member bank, directly or indirectly, any extension of credit not authorized under this section.

8. Redesignated 12 CFR 215.9 is revised to read as follows:

**§ 215.9 Reports by executive officers.**

Each executive officer<sup>5</sup> of a member bank who becomes indebted to any other bank or banks in an aggregate amount greater than the amount specified for a corresponding category of credit in § 215.5(c) of this part, shall, within 10 days of the date the indebtedness reaches such a level, make a written report to the board of directors of the officer's bank. The report shall state the lender's name, the date and amount of each extension of credit, any security for it, and the purposes for which the proceeds have been or are to be used.

**§ 215.11 [Added]**

9. A new 12 CFR 215.11 is added to read as follows:

Each executive officer or director of a member bank the shares of which are not publicly traded shall report annually to the board of directors of the member bank the outstanding amount of any credit that was extended to the executive officer or director and that is secured by shares of the member bank.

**PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL**

**Subpart A—General Provisions**

1. The authority for part 225 continues to read as follows:

**Authority:** 12 U.S.C. 1817(j)(13), 1818i, 1831(i), 1843(c)(8), 1844(b) 3106, 3108, 3907, 3909, 3310, and 3331-3351.

2. 12 CFR 225.4 is amended by adding paragraph (f) to read as follows:

**§ 225.4 Corporate practices.**

(f) *Loan reporting requirements.* Each executive officer or director of a bank holding company the shares of which are not publicly traded shall report annually to the board of directors of the bank holding company the outstanding amount of any credit that was extended to the executive officer or director and that is secured by shares of the bank

holding company. For purposes of this paragraph, the terms "executive officer" and "director" shall have the meaning given in § 215.2 of Regulation O, 12 CFR 215.2.

Board of Governors of the Federal Reserve System, February 13, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-3879, Filed 2-19-92; 8:45 am]

BILLING CODE 6210-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 10, 12, 16, 20, 500, 510, 511, and 514**

[Docket No. 88N-0058]

RIN 0905-AA96

**New Animal Drug Regulations; Extension of Comment Period**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to May 18, 1992, the comment period for the proposed rule to revise its regulations governing the approval, disapproval, and withdrawal of approval for marketing of new animal drugs. The proposal was published in the *Federal Register* of December 17, 1991 (56 FR 65544). FDA is taking this action in response to several requests for an extension of the comment period.

**DATES:** Comments by May 18, 1992.

**ADDRESSES:** Submit written comments to Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Bob G. Griffith, Center for Veterinary Medicine (HFV-110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301-295-8612.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of December 17, 1991 (56 FR 65544), FDA issued a proposed rule to revise the animal drug regulations governing the approval, disapproval, and withdrawal of approval for marketing of new animal drugs. Interested persons were given until February 18, 1992, to respond to the proposal. In response to the proposal, FDA received from trade associations several requests for an extension of the

<sup>5</sup> For the purposes §§ 215.5, 215.9 and 215.10 of this part, an executive officer of a member bank does not include an executive officer of a bank holding company of which the member bank is a subsidiary or any other subsidiary of that bank holding company.

<sup>6</sup> See footnote 4 to § 215.5(a).



comment period for an additional 90 days because of the time required to solicit views from various members and to properly respond to the proposal. After careful consideration, FDA is granting the extension. Accordingly, the comment period is extended to May 18, 1992.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3864 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

## 21 CFR Parts 226, 510, and 514

[Docket No. 88N-0038]

RIN 0905-AA96

### Records and Reports Concerning Experience With New Animal Drugs for Which an Approved Application is in Effect; Extension of Comment Period

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to May 18, 1992, the comment period for the proposed rule to amend the regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to approved new animal drugs and medicated feeds. The proposal was published in the Federal Register of December 17, 1991 (56 FR 65581). FDA is taking this action in response to several requests for an extension of the comment period.

**DATES:** Comments by May 18, 1992.

**ADDRESSES:** Submit written comments to Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Andrew J. Beaulieu, Center for Veterinary Medicine (HFV-210), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20857, 301-295-8722.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of December 17, 1991 (56 FR 65581), FDA issued a proposed rule to amend the regulations regarding the requirements for recordkeeping and reporting of adverse experiences and other information relating to approved new animal drugs and medicated feeds. Interested persons were given until February 18, 1992, to respond to the proposal. In response to the proposal, FDA received from trade associations several requests for an extension of the comment period for an additional 90 days because of the time required to solicit views from various members and to properly respond to the proposal. After careful consideration, FDA is granting the extension. Accordingly, the comment period is extended to May 18, 1992.

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding the proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3863 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[PS-101-90]

RIN 1545-AP64

### Enhanced Oil Recovery Credit; Correction

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to the notice of proposed rulemaking (PS-101-90), which was published on Monday, December 30, 1991, (56 FR 67256). The proposed regulations relate to the enhanced oil recovery credit for certain costs that are paid or incurred in connection with a qualified enhanced oil recovery project.

**FOR FURTHER INFORMATION CONTACT:** Brenda M. Stewart, (202-566-4919, not a toll-free call).

## SUPPLEMENTARY INFORMATION:

### Background

The notice of proposed rulemaking that is the subject of these corrections implements section 43 of the Internal Revenue Code which was enacted by section 11511 of the Omnibus Reconciliation Act of 1990, Public Law 101-508.

### Need for Correction

As published, the proposed regulations contain errors which may prove to be misleading and are in need of clarification.

### Correction of Publication

Accordingly, the publication of the proposed regulations (PS-101-90), which was the subject of FR Doc. 91-30875, is corrected as follows:

#### § 1.43-0 Corrected.

**Paragraph 1.** On page 67259, column three, in § 1.43-0 "Table of Contents", the entry for § 1.43-4(b)(2), the language "Intangible drilling and developments" is corrected to read "Intangible drilling and development".

#### § 1.43-1 Corrected.

**Par. 2.** On page 67260, column three, in § 1.43-1(g), in the ninth line of *Example 1*, the language "development costs under section 203(c). The" is corrected to read "development costs. The".

#### § 1.43-2 Corrected.

**Par. 3.** On page 67261, column three, in § 1.43-2(d)(iii)(2), *Example 3*, line 15, the language "steam method. B begins cyclic steam" is corrected to read "steam method. B begins steam".

**Par. 4.** On page 67262, column two, in § 1.43-2(d)(iii)(2), *Example 7*, line 12, the language "recovery of crude from the property. F" is corrected to read "recovery of crude oil from the property. F".

#### § 1.43-4 Corrected.

**Par. 5.** On page 67264, column one, in § 1.43-4(b)(4)(i), *Example 3*, line 9, the language "used directly in the tertiary recovery process" is corrected to read "used directly in the tertiary recovery method".

**Par. 6.** On page 67264, column two, in § 1.43-4(b)(4)(i), *Example 5*, line 5, the language "directly in the tertiary recovery process and" is corrected to read "directly in the tertiary recovery method and".

**Par. 7.** On page 67264, column three, in § 1.43-4(c)(6), *Example 2*, line 1, the language "Offshore drilling platform. I" is corrected to read "offshore drilling platform. J".



Par. 8. On page 67265, column two, in § 1.43-4(d)(ii)(2), line 9, the language "plan of development, or another similar" is corrected to read "plan of development or other similar".

Par. 9. On page 67265, column two, in § 1.43-4(d)(ii)(3), Example 2, line 7, the language "into account when K files the 1992 federal" is corrected to read "into account in determining the credit when K files the 1992 federal".

Cynthia E. Grigsby,

Alternate Federal Register Liaison Officer,  
Assistant Chief Counsel (Corporate).

[FR Doc. 92-3763 Filed 2-19-92; 8:45 am]

BILLING CODE 4830-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 92-22, RM-7898]

#### Radio Broadcasting Services; Dumas and Marianna, AR

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rule making filed on behalf of Alan W. Eastham and Craig Eastham, d/b/a KXFE-FM, licensee of Station KXFE(FM), Channel 296A, Dumas, Arkansas, seeking the substitution of Channel 295C3 for Channel 296A at Dumas, and modification of the license for Station KXFE(FM) accordingly. In order to accommodate the request, petitioners seek the substitution of Channel 287A for vacant Channel 295A at Marianna, Arkansas. (A new application filing window will be opened for the channel at Marianna upon termination of this proceeding.) Coordinates used for Channel 295C3 at Dumas, Arkansas, are 33-55-34 and 91-38-04. Coordinates used for Channel 287A at Marianna, Arkansas, are 34-47-01 and 90-45-59. Petitioner's modification proposal complies with the provisions of § 1.420(g) of the Commission's Rules. Therefore, we will not accept competing expressions of interest in the use of Channel 295C3 at Dumas, or require the petitioner to demonstrate the availability of an additional equivalent class channel.

**DATES:** Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested

parties should serve the petitioners' counsel, as follows: Cary S. Tepper, Esq., Putbrese, Hunsaker & Ruddy, 6800 Fleetwood Road, P.O. Box 539, McLean, VA 22101.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-22, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st St., NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR 73:

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3874 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

### 47 CFR Part 73

[MM Docket No. 92-21, RM-7796]

#### Radio Broadcasting Services; Cave City, Radcliff, KY, and Santa Claus, IN

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by W&B Broadcasting, Inc., proposing the substitution of Channel 278C3 for Channel 278A at Radcliff, Kentucky, and modification of its construction permit

(BPH-871110MU) to specify the higher class channel. Channel 278C3 can be allotted to Radcliff in compliance with the Commission's minimum distance separation requirements with a site restriction of 15.0 kilometers (9.3 miles) west of the community, in order to avoid a proposal to allot Channel 275C3 to Cannelton, Indiana, at coordinates North Latitude 37-50-34 and West Longitude 86-06-49. In order to accomplish the upgrade at Radcliff, petitioner also requests that the reference coordinates for Station WHHT(FM), Channel 279C3, Cave City, Kentucky, be modified to coordinates North Latitude 36-57-34 and West Longitude 86-00-08, and the reference coordinates for vacant but applied for Channel 277A at Santa Claus, Indiana, be modified to North Latitude 38-12-50 and West Longitude 87-00-50. In accordance with § 1.420(g) of the Commission's Rules, we shall not accept competing expressions of interest for the use of Channel 278C3 at Radcliff or require the petitioner to demonstrate the availability of an additional equivalent channel for use by interested parties.

**DATES:** Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jerrold Miller, Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Attorney for W&B Broadcasting, Inc.).

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-21, adopted February 4, 1992, and released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*



*parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3875 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 92-23, RM-7900]

#### Radio Broadcasting Services; Hazard, Hyden and London, KY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition by Ethel Huff, permittee of Station WYGE(FM), Channel 223A, London, Kentucky, requesting the substitution of Channel 223C3 for Channel 223A at London, Kentucky, and modification of Station

WYGE(FM)'s construction permit (BPH-880817MH) accordingly; the substitution of Channel 223A for Channel 284A at Hazard, Kentucky, and the modification of Station WJMD(FM)'s license accordingly; and the substitution of Channel 284A for Channel 222A at Hyden, Kentucky, and the modification of Station WZQQ(FM)'s license accordingly. The coordinates for Channel 222C3 at London are North Latitude 37-03-32 and West Longitude 84-03-02. The coordinates for Channel 223A at Hazard are North Latitude 37-1-36 and West Longitude 83-11-04. The coordinates for Channel 284A at Hyden are North Latitude 37-10-14 and West Longitude 83-22-49.

**DATES:** Comments must be filed on or before April 6, 1992, and reply comments on or before April 21, 1992.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William P. Bernton, 2 Mill Lane, Yarmouth Port, MA 02675 (Attorney for petitioner).

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92-23, adopted February 5, 1992, and

released February 12, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 92-3871 Filed 2-19-92; 8:45 am]

BILLING CODE 6712-01-M



# Notices

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forms Under Review by Office of Management and Budget

February 14, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250 (202) 690-2118.

#### Revision-Expedited

- Agricultural Stabilization and Conservation Service  
7 CFR 777, 1477, and 1413-Disaster Payments and Disaster Assistance programs  
ASCS-574, 574-1, 658; CCC-441, 441A, 441W, 441SU, 441WR, 440  
On occasion  
Farms; 15,318,003 responses; 3,829,501 hours  
Charles Cox (202) 720-6688
- Agricultural Stabilization and Conservation Service

7 CFR part 1435, Regulations Governing Sugar and Crystalline Fructose Information Reporting Requirements  
Recordkeeping; Monthly;  
Businesses or other for-profit; 1,009 responses; 31,508 hours  
Bob Barry

#### Revision

- Farmers Home Administration  
7 CFR 1951-S, Farmers Programs Account Servicing Policies  
FmHA 1951-39, -39A  
On occasion  
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; responses 103,982; hours 8,325  
Jack Holston (202) 720-9736
- National Agricultural Statistics Service  
Water Quality/Food Safety  
On occasion  
Farms; Businesses or other for-profit; 100 responses; 100 hours  
Larry Gambrell (202) 720-7737

#### New Collection

- Agricultural Stabilization and Conservation Service  
7 CFR part 703 Wetlands Reserve Program  
ASCS-890, ASCS-891, ASCS-891 (Appendix), ASCS-897, ASCS-898, ASCS-899  
On occasion  
Individuals or households; Farms; 260,000 responses; 134,167 hours  
Lois Hubbard (202) 720-9563  
Donald E. Hulcher,  
Deputy Departmental Clearance Officer.  
[FR Doc. 92-3955 Filed 2-19-92; 8:45 am]  
BILLING CODE 3410-01-M

### Animal and Plant Health Inspection Service

[Docket No. 92-012]

#### Availability of Environmental Assessments and Findings of No Significant Impact Relative to Issuance of Permits to Field Test Genetically Engineered Organisms

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that two environmental assessments

and findings of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of permits to allow the field testing of genetically engineered organisms. The assessments provide a basis for the conclusion that the field testing of these genetically engineered organisms will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on these findings of no significant impact, the Animal and Plant Health Inspection Service has determined that environmental impact statements need not be prepared.

**ADDRESSES:** Copies of the environmental assessments and findings of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

#### FOR FURTHER INFORMATION CONTACT:

Mary Petrie, Program Specialist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436-7612. For copies of the environmental assessments and findings of no significant impact, write Clayton Givens at this same address. The documents should be requested under the permit numbers listed below.

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit



for the release into the environment of a regulated article (see 52 FR 22906).

In the course of reviewing the permit applications, APHIS assessed the impact on the environment of releasing the organism under the conditions described in the permit applications. APHIS concluded that the issuance of the permits listed below will not present a risk of plant pest introduction or

dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessments and findings of no significant impact, which are based on data submitted by the applicants as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental

impacts associated with conducting the field tests.

Environmental assessments and findings of no significant impact have been prepared by APHIS relative to the issuance of the following permits to allow the field testing of genetically engineered organisms:

Permit number	Permittee	Date issued	Organism	Field test location
91-333-02.....	Calgene, Incorporated.....	01-14-92	Cotton plants genetically engineered to express a nitrilase enzyme to confer tolerance to the herbicide bromoxynil..	Washington County, Mississippi.
91-253-01.....	University of Hawaii at Manoa.....	01-15-92	Papaya plants genetically engineered to express the coat protein gene of papaya ringspot virus (PRV)..	Oahu County, Hawaii.

The environmental assessments and findings of no significant impact have been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR Part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 14th day of February 1992.

**Robert Melland,**

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-3957 Filed 219-92; 8:45 am]

BILLING CODE 3410-34-M

[Docket No. 92-011]

#### Receipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

#### **ACTION:** Notice.

**SUMMARY:** We are advising the public that 13 applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

**ADDRESSES:** Copies of the applications referenced in this notice, with any confidential business information deleted, are available for public inspection in room 1141, South Building, United States Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. You may obtain a copy of these documents by writing to the person listed under "FOR FURTHER INFORMATION CONTACT".

**FOR FURTHER INFORMATION CONTACT:** Mary Petrie, Program Specialist, Biotechnology, Biologics, and Environmental Protection,

Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

**SUPPLEMENTARY INFORMATION:** The regulations in 7 CFR part 340, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests," require a person to obtain a permit before introducing (importing, moving interstate, or releasing into the environment) into the United States certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application number	Applicant	Date received	Organism	Field test location
92-010-01, renewal of permit 91-043-01, issued on 5-10-91.	Louisiana State University.....	1-10-92	Rice plants genetically engineered to contain a hygromycin marker along with one of the following genes: a rice storage protein gene, a bean storage protein gene, a pea storage protein gene, or a delta-endotoxin protein from <i>Bacillus thuringiensis</i> subsp. <i>sotto</i> .	East Baton Rouge Parish, Louisiana.
92-014-01.....	North Carolina State University.....	1-14-92	Tobacco plants genetically engineered to express a delta-endotoxin protein from <i>Bacillus thuringiensis</i> subsp. <i>kurstaki</i> strain HD1.	Johnston County, North Carolina.
92-015-01.....	Monsanto Agricultural Company....	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Arkansas County, Arkansas.



Application number	Applicant	Date received	Organism	Field test location
92-015-02	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Washington County, Iowa.
92-015-03	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Bolivar County, Mississippi.
92-015-04	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	Story County, Iowa; White County, Indiana.
92-015-05	Monsanto Agricultural Company	1-15-92	Soybean plants genetically engineered to express the enzyme 5-enolpyruvyl shikimate-3-phosphate synthase (EPSPS) and a metabolizing enzyme for tolerance to the herbicide glyphosate.	McLean County, Illinois.
92-016-01	U.S. Department of Agriculture, Agricultural Research Service.	1-16-92	Potato plants genetically engineered to express a delta-endotoxin from <i>Bacillus thuringiensis</i> subsp. <i>thuringiensis</i> strain HD290 for resistance to the Colorado Potato Beetle.	Yakima County, Washington.
92-017-01	InterMountain Canola Company	1-17-92	Rapeseed plants genetically engineered to express the phosphinothricin acetyltransferase (PAT) gene for tolerance to the herbicide glufosinate, and to express male sterile or male restored and hybrid lines.	Fremont County, Idaho.
92-017-02	Northrup King Company	1-17-92	Corn plants genetically engineered to express a coat protein gene from the maize dwarf mosaic virus strain B (MDMV-B) for resistance to MDMV-B.	Champaign County, Illinois; Goodhue County, Minnesota.
92-017-03	Northrup King Company	1-17-92	Corn plants genetically engineered to express a delta-endotoxin protein from <i>Bacillus thuringiensis</i> subsp. <i>kurstaki</i> strain HD1 for resistance to European corn borer.	Champaign County, Illinois; Goodhue County, Minnesota.
92-017-04	Hoechst-Roussel Agri-Vet Company.	1-17-92	Corn plants genetically engineered to express the phosphinothricin N-acetyltransferase (PAT) gene, for tolerance to the herbicide glufosinate.	Henry County, Illinois; Johnson County, Indiana; Iowa and Louisa Counties, Iowa; Saunders County, Nebraska.
92-021-01	U.S. Department of Agriculture, Agricultural Research Service.	1-21-92	Potato plants genetically engineered to express a coat protein gene from potato leaf roll virus (PLRV) for resistance to PLRV.	Benton County, Washington.

Done in Washington, DC, this 14th day of February 1992.

Robert Melland,  
Administrator, Animal and Plant Health  
Inspection Service.

[FR Doc. 92-3956 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-34-M

#### Federal Crop Insurance Corporation

[Notice No. REI-92-1; Doc. No. 0120e]

#### Availability of Draft Copies of the 1993 Standard Reinsurance Agreement

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Notice of availability of documents.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) publishes this notice to advise all interested parties that it has released, for public comment, draft copies of the Standard Reinsurance Agreement for 1993; related appendices; and Manuals 13 and 14.

FCIC is soliciting comments on the draft agreement and related appendices. Anyone having an interest in reviewing these documents, in order to offer comment may obtain copies by writing or calling FCIC at the address in the ADDRESSES section.

**DATES:** Written comments, data, and opinions on this notice must be submitted not later than March 16, 1992, to be sure of consideration.

**ADDRESSES:** Written comments on this notice should be sent to the following address: Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, Attention: Heywood Baker, Director, Delivery System Services, Telephone (202) 254-8413.

**FOR FURTHER INFORMATION CONTACT:** Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235-1168.

Done in Washington, DC, on January 31, 1992.

James E. Cason,  
Manager, Federal Crop Insurance  
Corporation.

[FR Doc. 92-3907 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-08-M

#### Forest Service

#### Draft Supplement to a Final Environmental Impact Statement for the Grade/Dukes Timber Sale in the Cuddy Mountain Roadless Area, Payette National Forest, Valley and Idaho Counties, ID

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare a supplement to an environmental impact statement.

**SUMMARY:** The Department of Agriculture, Forest Service will prepare a Draft and Final Supplement to the Environmental Impact Statement previously prepared for the Grade/



Dukes Timber Sale (September 1990). The supplement will focus on specific issues involving old-growth fragmentation, biodiversity, pileated woodpecker, raptor surveys, sensitive plant and animal species, and cumulative effects from future timber sales.

The agency will accept written comments and suggestions on the scope of the analysis. However, because the Forest has been communicating with interested persons concerning the scope of the proposed project throughout the environmental analysis process, the agency urges that any comments be concise and specific to the focus of the supplement. Comments directed to the substance, rather than the scope of the proposed project, would be more appropriately submitted during the comment period following release of the Draft Supplement to the Final Environmental Impact Statement.

**DATES:** Comments on the scope of the analysis must be received by March 21, 1992.

**ADDRESSES:** Submit written comments and suggestions concerning the scope of the analysis to Forest Supervisor, Payette National Forest.

**FOR FURTHER INFORMATION CONTACT:** Questions about the proposed action should be directed to Dan Hormaechea, Forest Supervisor's Office, McCall, ID.

**SUPPLEMENTARY INFORMATION:** The Payette National Forest Supervisor released the Final Environmental Impact Statement for the Grade/Dukes Timber Sale on September 10, 1990. A decision was not made at that time. A public review and comment period on the Final Environmental Impact Statement was allowed. After reviewing the public comments and completing further public involvement, a Record of Decision for the project was signed on August 16, 1991, by Payette National Forest Supervisor Veto J. LaSalle. During August and September of 1991, seven appeals were filed on the Record of Decision and Final Environmental Impact Statement for the Grade/Dukes Timber Sale.

After reviewing the appeals, the Intermountain Regional Forester reversed the Forest Supervisor's decision on eight appeal points and affirmed the Forest Supervisor on all other appeal issues. The Regional Forester directed the Forest Supervisor on all other appeal issues. The Regional Forester directed the Forest Supervisor to supplement the Environmental Impact Statement with the following information:

1. Provide site-specific information and maps showing size and location of

blocks of old growth and the percentage remaining after harvest.

2. Provide a more thorough analysis and discussion on the fragmentation of biological corridors and the viability of species affected by the fragmentation.

3. Expand the treatment of biodiversity to discuss the wildlife species that are dependent on the habitats affected by the project and how the action will affect the viability of those species.

4. Provide a more thorough discussion of the direct, indirect, and cumulative impacts on the pileated woodpecker, with clear detail on the status of monitoring activities.

5. Either complete a survey of raptor species or provide the documentation showing a survey of raptors, in addition to the flammulated owl, was conducted to meet the Forest Plan standards.

6. Complete biological evaluations (or document why biological evaluations need not be completed) on fisher, boreal owl, great gray owl, lynx, three-toed woodpecker, spotted bat, and western (Townsend's) big-eared bat.

7. Complete biological evaluations (or document why biological evaluations need not be completed) on *Calamagrostis tweedyi* and *Ceanothus prostratus*. Provide details on why biological evaluations were not conducted on *Allium validum*, *Allotropia virgata* and *Haploppapus radiatus*.

8. Review cumulative effects analysis for all resources to assure that the Woodsy, Inseid, and Heath Timber Sales are included in the analysis.

The Regional Forester also directed that the Forest Supervisor prepare the results as a supplement to the environmental impact statement and make the supplement available to the public for review and comment.

Scoping for the project was initiated in April 1988 when a notice of intent to prepare an environmental impact statement appeared in the **Federal Register**. A Draft Environmental Impact Statement was released in August 1989.

The Draft Supplement to the Final Environmental Impact Statement is expected to be filed with Environmental Protection Agency and be available for public review in June, 1992. At that time, the Environmental Protection Agency will publish a notice of availability of the Draft Supplement in the **Federal Register**.

The comment period on the Draft Supplement will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the **Federal Register**. It is very important that those interested participate at that time. To be the most helpful, comments on the Draft

Supplement should be as specific as possible and address the adequacy of the supplement.

Comments on the Draft Supplement will be analyzed and considered by the Forest Service in preparing the Final Supplement, which is scheduled to be completed in August 1992. The Forest Service is required to respond to the comments received (40 CFR 1503.4). After reviewing the supplement along with any public comments on the supplement, the Forest Supervisor will then determine if the original decision should be amended. If the original decision does not require amendment, the Forest Supervisor may proceed with the project without issuing a new Record of Decision. If the Forest Supervisor determines that the decision should be amended, the decision and reasons supporting it will be documented in a new Record of Decision. That decision will be subject to appeal under 36 CFR 217.

Veto J. LaSalle, Forest Supervisor of the Payette National Forest, McCall, Idaho, is the responsible official for this action.

Dated: February 13, 1992.

Kurt Nelson,

Acting Forest Supervisor.

[FR Doc. 92-3934 Filed 2-19-92; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-428-810]

### Notice of Preliminary Determination of Sales at Less Than Fair Value: High-Tenacity Rayon Filament Yarn From Germany

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Edward Easton, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1777.

### Preliminary Determination

We preliminarily determine that high-tenacity rayon filament yarn from Germany is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the



"Suspension of Liquidation" section of this notice.

#### Case History

Since the publication of our notice of initiation on September 26, 1991 (56 FR 49878, October 2, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (56 FR 55930, October 30, 1991).

On November 1, 1991, the Department presented sections A, B, C, and D of the Department's questionnaire to Akzo Faser AG and Akzo Fibers, Inc. (hereafter jointly referred to as "Akzo"), both subsidiaries of Akzo N.V. As the entity which accounts for all exports of the subject merchandise to the United States, Akzo is the only respondent in this investigation.

We received Akzo's response to section A of the questionnaire on November 25, 1991. A deficiency letter for section A was issued on December 11, 1991. Akzo responded to the deficiency questionnaire on December 23, 1991.

On December 16, 1991, we received responses to sections B and C. Based on these responses, we issued a deficiency letter on January 24, 1992, to which the Akzo responded on February 7, 1992.

We received Akzo's response to section D of the questionnaire regarding cost of production (COP) on December 23, 1991. On January 22, 1992, a deficiency letter was issued with respect to the section D response. Akzo responded to the section D deficiency letter on February 7, 1992. We issued a second section D deficiency letter on February 11, 1992. The December 23, 1991, section D response was received in time to be analyzed and used for purposes of this preliminary determination; however, there was not sufficient time to use the February 7, 1992, response and the response to the deficiency letter issued February 11, 1992, in making this preliminary determination. Information contained in these responses that is verified will be used in making the final determination.

In the petition filed September 6, 1991, petitioner alleged the existence of critical circumstances. The Department requested information on shipments from Akzo in the November 1, 1991 questionnaire. See the "Critical Circumstances" section of this notice below.

#### Scope of the Investigation

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon

filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under item 5403.10.30.40 of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Period of Investigation

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

#### Such or Similar Comparisons

We have determined that high-tenacity rayon filament yarn constitutes a single category of such or similar merchandise. Product comparisons were made between sales of identical merchandise; therefore, no adjustments for differences in merchandise were required.

#### Fair Value Comparisons

To determine whether sales of high-tenacity rayon filament yarn from Germany to the United States were made at less than fair value, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

#### United States Price

We based United States price on both purchase price and exporter's sales price (ESP), in accordance with section 772 of the Act. We calculated purchase price and ESP based on packed, delivered prices.

#### Purchase Price

For purchase price, we made deductions for rebates, third party payments, foreign brokerage, foreign inland freight, foreign insurance, ocean freight, U.S. duty, U.S. brokerage, U.S. inland freight, and containerization. We used "best information available" (BIA) as provided for in section 776 of the Act for one sales transaction for which no U.S. inland freight was reported. For this transaction, the highest U.S. inland freight amount reported by Akzo was used. We made an addition to purchase price for uncollected value-added taxes as provided for in section 772(d)(1)(C) of the Act.

#### Exporter's Sales Price

For ESP, we made deductions for rebates, third party payments, foreign brokerage, foreign inland freight, foreign

insurance, ocean freight, U.S. duty, U.S. brokerage, U.S. inland freight, and containerization, warranty expenses, and technical service expenses. In accordance with section 772(e) of the Act, we made additional deductions, where appropriate, for credit and indirect selling expenses. Indirect selling expenses included inventory carrying costs, product liability premiums, and indirect selling expenses. We made an addition to ESP for uncollected value-added taxes as provided for in section 772(d)(1)(C).

#### Foreign Market Value

##### Market Viability

In order to determine whether there were sufficient sales of high-tenacity rayon filament yarn in the home market to serve as a viable basis for calculating FMV, we compared the volume of home market sales of high-tenacity rayon filament yarn to the volume of third country sales of the same product in accordance with section 773(B)(1) of the Act. We found that the home market was viable for sales of high-tenacity rayon filament yarn.

##### Cost of Production

Petitioner submitted a sufficient company-specific allegation that Akzo's home market sales of high-tenacity rayon filament yarn were made at prices below COP. For purposes of calculating the COP of high-tenacity rayon filament yarn, we relied upon information supplied by Akzo in its submissions where such information was appropriately quantified or valued. We recalculated interest expense by dividing total financing charges from the consolidated financial statements by the total cost of goods sold for the nine months ended September 30, 1991, as reported by respondent. We then applied this percentage to the cost of manufacturing for each product.

We compared home market prices to the calculated COP. Since between 10 and 90 percent of Akzo's sales in the home market were made at prices above the COP of high-tenacity rayon filament yarn, we disregarded Akzo's below-cost sales for purposes of calculating FMV.

#### Foreign Market Value

We calculated FMV based on packed, delivered prices to unrelated customers in the home market. We made deductions, where appropriate, for rebates, third party payments, cash discounts, other discounts, inland freight, and insurance. We also deducted credit and added interest revenue. We deducted home market packing costs and added U.S. packing



costs. We also deducted indirect selling expenses, including inventory carrying costs and product liability insurance premiums. We capped the deduction for home market indirect selling expenses by the amount of U.S. indirect selling expenses in accordance with 19 CFR 353.56(b).

#### Critical Circumstances

Petitioner alleges that "critical circumstances" exist with respect to imports of high-tenacity rayon filament yarn from Germany. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect that:

(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

In general, if imports during the three-month period immediately following the filing of a petition increase by at least 15 percent over imports during the comparable period immediately preceding the filing of a petition, we consider them massive (19 CFR 353.16(f)). To determine whether imports subject to this investigation have been massive over a relatively short period, we based our analysis on respondents' shipment data for three-month periods immediately preceding and following the filing of the petition. Based on this analysis, we find that imports of the subject merchandise from Germany during the period subsequent to receipt of the petition have been massive.

In determining whether there is a history of dumping, we normally consider whether an outstanding antidumping order on the subject merchandise exists in the United States or elsewhere. There are currently no findings of dumping in the United States or elsewhere of the subject merchandise by manufacturers, producers, or exporters of the subject merchandise from Germany.

It is the Department's practice to impute knowledge of dumping under section 735(a)(3)(A) of the Act when the estimated margins in our determinations are of such a magnitude that the importer should have reasonably known that dumping exists with regard to the subject merchandise. Normally we

consider estimated margins of 25 percent or greater on sales to unrelated parties and margins of 15 percent or greater on sales to related parties to be sufficient to impute knowledge (see, *Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Italy* (52 FR 24196, June 29, 1987) and *Final Determination of Sales at Less Than Fair Value; Certain Internal-Combustion, Industrial Forklift Trucks from Japan* (53 FR 12552, April 15, 1988)).

In this investigation, there were sales to both related and unrelated parties in the United States. Accordingly, we weight-averaged the 25 percent and 15 percent benchmarks by the volume of purchase price and ESP sales, respectively, to arrive at a weight-averaged benchmark percentage for imputing knowledge. Since the preliminary estimated weight-averaged dumping margin exceeds the weight-averaged benchmark, we found that importers either knew or should have known that Akzo was selling the subject merchandise at less than its fair value.

Therefore, based on the imputation of knowledge on behalf of importers of sales at less than fair value and massive imports, we preliminarily determine that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of high-tenacity rayon filament yarn from Germany.

#### Currency Conversion

When calculating foreign market value, we made currency conversions in accordance with 19 CFR 353.60 by using the exchange rates certified by the Federal Reserve Bank of New York.

#### Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

#### Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the Customs Service to suspend liquidation of all entries of high-tenacity rayon filament yarn from Germany that are entered, or withdrawn from warehouse, for consumption on or after the date 90 days prior to the date of publication of this notice in the *Federal Register* for Akzo and on the date of publication for all others. The Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice.

Producer/ Manufacturer/ exporter	Weighted- average margin percent- age,	Critical circumstances
Akzo.....	20.47	Yes.
All others.....	20.47	No.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

#### Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 10, 1992, and for rebuttal briefs no later than April 14, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on April 16, 1992, at 10:00 A.M. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Alan M. Dunn,  
Assistant Secretary for Import  
Administration.

Dated: February 13, 1992.

[FR Doc. 92-3961 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M



[A-421-802]

**Notice of Preliminary Determination of Sales at Not Less Than Fair Value: High-Tenacity Rayon Filament Yarn From the Netherlands**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Thirumalai, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8498.

**PRELIMINARY DETERMINATION**

We preliminarily determine that high-tenacity rayon filament yarn from the Netherlands is not being, nor is it likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act).

**Case History**

Since the publication of our notice of initiation on September 26 1991, (56 FR 49878, October 2, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (56 FR 55930, October 30, 1991).

On November 1, 1991, the Department presented sections A, B, C, and D of the Department's questionnaire to Akzo Faser B.V. and Akzo Fibers, Inc. (hereafter jointly referred to as "Akzo"), both subsidiaries of Akzo N.V. As the only know producer of the subject merchandise in the Netherlands, Akzo is the only respondent in this investigation.

On November 8, 1991, Akzo made a submission in which it reported that it does not export the merchandise subject to this investigation from its facilities in the Netherlands. The Department then informed Akzo that it would be required to complete only relevant portions of section A of the Department's questionnaire.

We received Akzo's response to section A of the questionnaire on November 25, 1991. In this response, Akzo asserted that all of its exports classified under the Harmonized Tariff Schedule ("HTS") item 5403.30.10.40 (the subcategory under the subject merchandise is reported) were misclassified. Textile-quality rayon yarns (not the subject of this investigation) that should have been classified elsewhere had been

consistently misclassified under HTS 5403.10.30.40. As a result of these misclassifications, the import statistics gave the appearance that there were imports of the subject merchandise from the Netherlands during 1989 and 1990.

We issued a deficiency questionnaire for section A on December 11, 1991. Akzo responded to the deficiency questionnaire on December 23, 1991. On January 17, 1992, we issued a second deficiency questionnaire to which Akzo responded on February 3, 1992.

In its petition filed September 6, 1991, petitioner alleged the existence of critical circumstances. The Department requested information on shipments from respondent in its November 1, 1991 questionnaire. See the "Critical Circumstances" section of this notice below.

**Scope of the Investigation**

The product covered by this investigation is high-tenacity rayon filament yarn. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. This yarn is currently classifiable under HTS item 5403.10.30.40. Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

On November 27, 1991, petitioner requested that the Department include imports of high-tenacity rayon yarn from the Netherlands that had been entered under HTS 5403.30.0020. Akzo reported that this product is not a single yarn, but, rather, a multiple yarn that is not within the scope of the investigation. Petitioner has not requested a change in the scope of the investigation. (See, memorandum from Acting Director/OAI to DAS/I, February 10, 1991.)

**Period of Investigation**

The period of investigation (POI) is April 1, 1991, through September 30, 1991.

**Fair Value Comparisons**

In order to determine whether sales of subject merchandise to the United States by a respondent were made at less than fair value, the Department compares the United States price to the foreign market value (FMV). Akzo reported no sales of or offers to sell the subject merchandise during the POI. Accordingly, there are no United States prices with which to compare foreign market value.

**Critical Circumstances**

Petitioners allege that "critical circumstances" exist with respect to imports of high-tenacity rayon filament yarn from the Netherlands. Section 733(e)(1) of the Act provides that critical circumstances exist when we determine that there is a reasonable basis to believe or suspect the following:

"(A)(i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation, or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of investigation at less than its fair value, and

(B) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period."

Since Akzo has reported that it did not sell or make offers to sell the merchandise under investigation, we find that there is no reasonable basis to believe or suspect that critical circumstances exist with respect to high-tenacity rayon filament yarn from the Netherlands.

**Verification**

As provided in section 778(b) of the Act, we will verify the information used in making our final determination.

**Estimated Dumping Margins**

Producer/ manufacturer/ exporter	Weighted- average margin percent- age	Critical circumstances
Akzo.....	00.00	No.
All others.....	00.00	No.

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether imports of the subject merchandise are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

**Public Comment**

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 10, 1992, and for rebuttal briefs no later



than April 14, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on April 16, 1992, at 10 a.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 13, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3962 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-403-803]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Norway

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Stephanie L. Hager or Paulo F. Mendes, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202)377-5055 or (202)377-5050, respectively.

#### PRELIMINARY DETERMINATION

We preliminarily determine that pure and alloy magnesium from Norway is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended ("the Act") (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the publication of the notice of initiation in the *Federal Register* (56 FR 49744, October 1, 1991), the following events have occurred.

On October 21, 1991, the U.S. International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that the magnesium industry in the United States is materially injured, or threatened with material injury, by reason of imports of pure and alloy magnesium from Norway.

On November 1, 1991, the Department presented its questionnaire to Norsk Hydro, a.s. ("Norsk Hydro"), whose sales comprised all imports of pure and alloy magnesium from Norway during the period of investigation ("POI"). On November 27, 1991, the Department received Norsk Hydro's response to Section A of the questionnaire and on December 23, 1991, the Department received Norsk Hydro's Sections B and C responses. January 20, 1992, Norsk Hydro received a supplemental/deficiency questionnaire from the Department. We received responses to the supplemental/deficiency questionnaire on January 30, 1992.

#### Scope of Investigation

On November 8, 1992, petitioner attempted to amend its petition to include granulated magnesium within the scope of the investigation. According to petitioner, the respondents under investigation may convert magnesium ingots and slabs into granules outside the United States in order to avoid potential antidumping duties.

Respondents in the current antidumping and countervailing duty investigations of pure and alloy magnesium from Canada have publicly commented on the many differences between granular and nongranular magnesium (see e.g., public version of Timminco Limited's October 18, 1991 submission in the antidumping and countervailing duty investigations of magnesium from Canada). The costs of manufacturing granular and nongranular magnesium are significantly different because of the additional manufacturing required for granular magnesium. Because of these cost differences, granular magnesium is sold at significantly higher prices than other magnesium forms. In addition, granular magnesium is used by a distinct group of customers which require specialized magnesium on a consistent quality basis in granular form.

"Circumvention" is the sole reason offered by the petitioner for including granular magnesium within the scope of the investigation. The comments

provided by the respondents in these investigations, however, indicate that granular and nongranular magnesium are two distinct products appealing to completely different markets. Therefore, we are not including granular magnesium within the scope of the investigation.

Norsk Hydro argues that pure and alloy magnesium should be separated into two classes or kinds of merchandise. According to Norsk Hydro, its class or kind argument is supported by the factors typically considered by the Department when making a class or kind determination: (1) Physical appearance and characteristics, (2) ultimate use, (3) channels of distribution, and (4) customer perception. Petitioner, however, maintains that pure and alloy magnesium should remain one class or kind. Norsk Hydro also requests that the Department specifically confirm that magnesium alloy billet for extrusion purposes is outside the scope of the investigation. According to Norsk Hydro, alloy billets are clearly different products from the products under investigation because they are used exclusively for extrusion purposes, an end-use for which magnesium products in other forms cannot be used.

The Department is collecting additional factual and technical information and will decide these issues by its final determination.

The products covered by this investigation are pure and alloy magnesium from Norway. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Granular and secondary magnesium are excluded from the scope of this investigation. Pure and alloy magnesium are currently classified under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Standing

On November 19, 1991, Norsk Hydro challenged petitioner's standing to file the petition and requested that the Department dismiss the petition and terminate the investigation. They argue that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on



behalf of the domestic industry. They state that the Court of International Trade in *Suramericana de Aleaciones Laminadas, C.A. v. United States*, 746 F. Supp. 139 (CIT 1990), appeal docketed, No. 91-1015 (Fed. Cir. Oct. 5, 1990) has held that an affirmative showing of support by the rest of the domestic industry is a necessary prerequisite for a petitioner to seek relief under U.S. trade laws.

We believe that the petitioner has standing since there is nothing in the statute, its legislative history, or the Department's regulations which requires that a petitioner establish affirmatively that it has the support of a majority of the domestic producers of the subject merchandise. In many cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing duty and antidumping laws. This position has been recently upheld by the Court of International Trade in *Koyo Seiko v. United States*, Slip. Op. 91-52 (June 27, 1991). Furthermore, the Department has appealed *Suramerica* and is awaiting a decision on that case. We note that no member of the domestic industry has expressed opposition to the petition in this case. Therefore, we have no basis to conclude that the petitioner lacks standing.

#### Period of Investigation

The POI is April 1, 1991, through September 31, 1991.

#### Such or Similar Comparisons

For purposes of the preliminary determination, we have determined that pure and alloy magnesium comprise two categories of such or similar merchandise. For both pure and alloy magnesium, comparisons were made on the basis of: (1) Product type, (2) American Society for Testing and Materials ("ASTM") specification, (3) purity, (4) form, and (5) size.

We used home market and third country sales as the basis for foreign market value for sales of pure and alloy magnesium, as described in the "Foreign Market Value" section of this notice. Where there were no sales of identical merchandise in the home or third country markets to compare to sales of merchandise in the United States, sales of the most similar merchandise based on the characteristics described above were used. All comparisons to products sold in the home or third country markets had difference in merchandise adjustments which were less than 20 percent of the total cost of manufacturing for the U.S. merchandise.

#### Fair Value Comparisons

To determine whether sales of pure and alloy magnesium from Norway to the United States were made at less than fair value, we compared the United States price ("USP") to the foreign market ("FMV"), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

#### United States Price

In calculating USP, the Department used purchase price, as defined in section 772(b) of the Act, for certain sales both because the subject merchandise was sold to unrelated purchasers in the United States prior to importation into the United States and because exporter's sales price ("ESP") methodology was not indicated by other circumstances. We also based USP on ESP, in accordance with section 772(c) of the Act, for those sales which were made to unrelated parties after importation into the United States.

We calculated purchase price based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, ocean freight, import duties, inland freight, and brokerage and handling in accordance with section 772(d)(2) of the Act. For the sales made during the period in which a value added tax ("VAT") was collected in Norway, we added to the net price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(c) of the Act.

Where USP was based on ESP, we calculated ESP based on prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, insurance, ocean freight, import duties, inland freight, and brokerage and handling in accordance with section 772(e) of the Act. We made further deductions, where appropriate, for credit, commissions and indirect selling expenses, including warehousing charges, inventory carrying charges, advertising, and non-U.S. indirect selling expenses in accordance with section 772(e) of the Act. For sales made during the period in which a VAT was collected in Norway, we added to the net unit price the amount of VAT that was not collected by reason of exportation of the merchandise in accordance with section 772(d)(1)(C) of the Act.

#### Foreign Market Value

In accordance with section 773(a) of the Act, we calculated FMV based on

both home market and third country sales.

In order to determine whether there were sufficient sales of such or similar merchandise in the home market to serve as the basis for calculating FMV, we compared the volume of home market sales of the such or similar category to the aggregate volume of third country sales of the such or similar category, in accordance with section 773(a)(1) of the Act. For the such or similar category consisting of pure magnesium, the volume of home market sales exceeded five percent of the aggregate volume of third country sales.

For pure magnesium, we based FMV on prices to unrelated customers in Norway. We made deductions, where appropriate, for inland freight, insurance, rebates, and quality control. We deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Where USP was based on purchase price, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit, warehouse handling, and VAT in accordance with 19 CFR 353.56.

For comparisons involving ESP transactions, we made adjustments to FMV for differences in circumstances of sale. We adjusted for differences in credit and VAT in accordance with 19 CFR 353.56. We made further deductions for home market indirect selling expenses, including advertising, inventory carrying costs, and indirect selling expenses, capped by the sum of commissions paid and indirect selling expenses incurred on ESP sales, in accordance with 19 CFR 353.56(b)(2).

For the such or similar category consisting of alloy magnesium, the volume of home market sales was less than five percent of the aggregate volume of third country sales. Because there were insufficient sales in the home market on which to base FMV for this such or similar category, we next determined if there was a third country market which could be used for comparison purposes.

In selecting the third country market to use for comparison purposes, we followed 19 CFR 353.49(b)(1). Accordingly, we determined that the volume of sales of alloy magnesium to Germany was adequate within the meaning of 19 CFR 353.49(b)(1) because the volume of sales of such or similar merchandise exceeded or was equal to five percent of the volume sold to the United States. Furthermore, Germany had the largest volume of sales to any third country market.



Norsk Hydro reported sales to both related and unrelated parties in Germany. However, Norsk Hydro was unable to demonstrate that related party sales involved arm's length transactions. Therefore, we calculated FMV based only on prices to unrelated customers in Germany. We made deductions, where appropriate, for inland freight incurred in Norway and Germany, insurance, brokerage and handling expenses, rebates, warehouse handling, and technical services. We deducted third country packing costs and added U.S. packing costs, in accordance with section 773(a)(1)(B) of the Act.

Where USP was based on purchase price, we made deductions to FMV for differences in circumstances of sale. We adjusted for differences in credit and warehouse handling in accordance with 19 CFR 353.56.

For third country comparisons involving ESP transactions, we made further deductions for third country indirect selling expenses, including advertising, inventory carrying costs, and indirect selling expenses, capped by the sum of indirect selling expenses incurred on ESP sales, in accordance with section 19 CFR 353.56(b)(2).

Norsk Hydro reported certain advertising expenses in both the home and third country markets as direct selling expenses. Because Norsk Hydro has not demonstrated that such expenses were directed at its customer's customer, we have reclassified these expenses as indirect selling expenses.

Norsk Hydro reported a difference in merchandise adjustment for one sale, requesting a downward adjustment to FMV. Because Norsk Hydro provided no cost information to support this difference in merchandise adjustment, as requested by the Department is its original questionnaire, we are not allowing the downward adjustment to FMV.

#### Currency Conversions

We made currency conversions in accordance with 19 CFR 353.60(a). All currency conversions were made at the rates certified by the Federal Reserve Bank.

#### Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

#### Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pure and alloy magnesium, as defined in the "Scope of

Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of pure and alloy magnesium exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Norsk Hydro, a.s. ....	8.26
All others .....	8.26

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring or threaten material injury to a U.S. industry before the later of 120 days after the date of the preliminary determination or 45 days after our final determination.

#### Public Comment

In accordance with 19 CFR 353.38(c), case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than April 7, 1992, and rebuttal briefs no later than April 13, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 16, 1992, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to the issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15.

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3960 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-814]

#### Preliminary Determination of Sales at Less Than Fair Value: Pure and Alloy Magnesium From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-3530 or 377-4162.

**PRELIMINARY DETERMINATION:** We preliminarily determine that pure and alloy magnesium from Canada is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). The estimated margins are shown in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by April 27, 1992.

#### Case History

Since the publication of the notice of initiation in the **Federal Register** (56 FR 49743, October 1, 1991) the following events have occurred:

On October 21, 1991, the U.S. International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that the magnesium industry in the United States is materially injured, or threatened with material injury, by reason of imports of pure and alloy magnesium from Canada. On November 1, 1991, the Department presented sections A, B, and C of its questionnaire to Timminco Limited (Timminco) and sections A, B, C, and D to Norsk Hydro Canada Inc. (NHCI).

Timminco responded to section A of the questionnaire on November 27, 1991, and the responses to sections B and C were provided on December 23, 1991. A deficiency questionnaire was presented to Timminco for section A, B, and C on January 17, 1992. The response to that



questionnaire was received on January 28, 1992. NHCI responded to section A of the Department's questionnaire, however, it failed to submit responses to sections B, C, and D.

#### Scope of Investigation

On November 8, 1991, petitioner attempted to amend its petition to include granulated magnesium within the scope of the investigation. According to petitioner, the respondents under investigation may convert magnesium ingots and slabs into granules outside the United States in order to avoid potential antidumping duties.

Respondents in the current antidumping and countervailing duty investigations of pure and alloy magnesium from Canada have publicly commented on the many differences between granular and nongranular magnesium (*see, e.g.,* public version of Timminco's October 18, 1991 submission to the Department.) The costs of manufacturing granular and nongranular magnesium are significantly different because of the additional manufacturing required for granular magnesium. Because of these cost differences, granular magnesium is sold at significantly higher prices than other magnesium forms. In addition, granular magnesium is used by a distinct group of customers which require specialized magnesium on a consistent quality basis in granular form.

"Circumvention" is the sole reason offered by the petitioner for including granular magnesium within the scope of the investigation. The comments provided by the respondents in these investigations, however, indicate that granular and nongranular magnesium are two distinct products appealing to completely different markets. Therefore, we are not including granular magnesium within the scope of the investigation.

Norsk Hydro argues that pure and alloy magnesium should be separated into two classes or kinds of merchandise. According to Norsk Hydro, its class or kind argument is supported by the factors typically considered by the Department when making a class or kind determination: (1) Physical appearance and characteristics, (2) ultimate use, (3) channels of distribution, and (4) customer perception. Petitioner, however, maintains that pure and alloy magnesium should remain one class or kind.

Norsk Hydro also requests that the Department specifically confirm that magnesium alloy billets for extrusion purposes are outside the scope of the investigation. According to Norsk

Hydro, alloy billets are clearly different products from the products under investigation because they are used exclusively for extrusion purposes, an end-use for which magnesium products in other forms cannot be used.

The Department is collecting additional factual and technical information and will decide these issues by its final determination.

The products covered by this investigation are pure and alloy magnesium from Canada. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Magnesium alloys contain less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Granular and secondary magnesium are excluded from the scope of this investigation. Pure and alloy magnesium are currently classifiable under subheadings 8104.11.0000 and 8104.19.0000, respectively, of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Standing

On November 19, 1991, the Government of Canada, NHCI, and Timminco challenged petitioner's standing to file the petition and requested that the Department dismiss the petition and terminate the investigation. They argue that this investigation is being conducted in violation of U.S. law since the petitioner is acting alone and not on behalf of the domestic industry. They state that the Court of International Trade in *Suramericana de Aleaciones Laminadas, C.A. v. United States*, 746 F. Supp. 139 (CIT 1990), appeal docketed, No. 91-1015 (Fed. Cir. Oct. 5, 1990) has held that an affirmative showing of support by the rest of the domestic industry is a necessary prerequisite for a petitioner to seek relief under U.S. trade laws.

We believe that petitioner has standing since there is nothing in the statute, its legislative history, or the Department's regulations which requires that a petitioner establish affirmatively that it has the support of a majority of the domestic producers of the subject merchandise. In many such cases, such a requirement would be so onerous as to preclude access to import relief under the countervailing duty and antidumping laws. This has been recently upheld by the Court of International Trade in *Koyo Seiko v. United States*, Slip. Op. 91-52 (June 27, 1991). Furthermore, the

Department has appealed *Suramerica* and is awaiting a decision on that case. We note that no members of the domestic industry have expressed opposition to the petition in this case. Therefore, we have no basis to conclude that the petitioner lacks standing.

#### Period of Investigation

The period of investigation is April 1, 1991 through September 30, 1991.

#### Best Information Available

We have determined, in accordance with section 776(c) of the Act, that the use of best information available is appropriate for NHCI. Section 776(c) requires the Department to use the best information available "whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation." \* \* \* Given NHCI's failure to respond to sections B, C, and D of the Department's questionnaire, this section of the Act applies.

In deciding what to use as best information available, § 353.37(b) of the Department's regulations (19 CFR 353.37(b)) (1991) provides that the Department may take into account whether a party refuses to provide requested information. Thus, the Department determines on a case-by-case basis what is the best information available. For purpose of this preliminary determination, given NHCI's refusal to submit its responses to sections B, C, and D of the Department's questionnaire, we assigned it the highest margin in the petition, which is 32.74 percent, as best information available.

#### Such or Similar Comparisons

For purposes of the preliminary determination, we have determined that magnesium is comprised of two categories of such or similar merchandise: (1) Pure magnesium; (2) alloy magnesium. All of the comparisons were based on sales of identical merchandise.

#### Fair Value Comparisons

To determine whether sales of pure and alloy magnesium from Canada to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

#### United States Price

All of Timminco's sales were made directly to unrelated U.S. customers



prior to importation. Therefore, U.S. Price was based on purchase price in accordance with section 772(b) of the Act. Exporter's sales price methodology was not indicated by other circumstances.

We calculated purchase price based on packed prices to unrelated customers in the United States. We made deductions, where appropriate, for foreign inland freight, U.S. brokerage and handling expenses, U.S. duties, and U.S. inland freight, in accordance with section 772(d)(2) of the Act. We also made deductions, where appropriate, for discounts.

We recalculated credit expenses for U.S. sales since Timminco did not subject discounts from the invoice price before making this calculation.

#### Foreign Market Value

In order to determine whether Timminco had sales of magnesium in the home market to serve as a basis for calculating foreign market value (FMV), we compared the volume of home market sales of each such or similar category to the aggregate volume of third country sales, in accordance with 19 CFR 353.48(a). We have determined that home market sales within each applicable category of such or similar merchandise was less than five percent of the aggregate volume of third country sales. Therefore, FMV for sales of magnesium was based on third country sales.

We based our selection of the appropriate third-country on whether third country markets had "adequate" volumes of sales within the meaning of 19 CFR 353.49(b)(1). We selected Japan as the appropriate third country market because sales to that market were identical to sales in the United States and the volume of sales to Japan exceeded or were equal to five percent of the volume sold in the United States. Therefore, we based FMV on Timminco's sales to Japan.

We calculated FMV on the basis of prices to unrelated customers in Japan. We made deductions, where appropriate, for foreign inland freight, ocean freight, marine insurance, and packing expenses. We made a circumstance of sale adjustment, where appropriate, for differences in credit costs pursuant to 19 CFR 353.56(a). We added U.S. packing to FMV, in accordance with section 773(a)(1) of the Act.

#### Currency Conversion

We made currency conversion conversions in accordance with 19 CFR 353.60(a). All currency conversions were

made at rates certified by the Federal Reserve Bank.

#### Verification

As provided in section 776(b) of the Act, we will verify the information used in making our final determination.

#### Suspension of Liquidation

In accordance with section 773(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of pure and alloy magnesium from Canada, as defined in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated preliminary dumping margins, as shown below. This suspension of liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/producer/exporter	Margin percentage
Timminco Limited.....	00.00
Norsk Hydro Canada, Inc.....	32.74
All others.....	32.74

Since the estimated preliminary dumping margin for Timminco is zero, it will be excluded from the suspension of liquidation.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry before the later of 120 days after the date of this preliminary determination or 45 days after our final determination.

#### Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than April 7, 1992, and rebuttal briefs no later than April 13, 1992. In accordance with 19 CFR 353.38(b), we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held on April 16, 1992, at 1 p.m. at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue NW., Washington,

DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act and 19 CFR 353.15(a)(4).

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3958 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-815]

#### Alignment of the Final Countervailing Duty Determination With the Final Antidumping Duty Determination: Pure and Alloy Magnesium From Canada

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 20, 1992.

**FOR FURTHER INFORMATION CONTACT:** Rick Herring or Magd Zalok, Office of Countervailing Investigations, Import Administration, U.S. Department of Commerce, room B099, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-3530 or 377-4162, respectively.

#### Alignment of Antidumping and Countervailing Duty Cases

On December 6, 1991, we published a preliminary affirmative countervailing duty determination pertaining to pure and alloy magnesium from Canada (56 FR 63927). The notice stated that we would make our final countervailing duty determination by February 12, 1992.

On February 11, 1992, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the "Act"), we received a request from petitioner to extend the due date for the final countervailing duty determination to coincide with the date of the final determination in the antidumping duty investigation of pure and alloy magnesium from Canada. Although a



request for postponement was due 10 days prior to the date of the Department's final determination (February 3, 1992), the 10 day time limit is for the benefit of parties to the proceeding. In this case, we notified all parties of our intent to postpone the final determination and we received no objections. In addition, we have no objections to extending the final determination at this time because the purpose of postponement is to facilitate and simplify parallel investigations for the interested parties, as well as for the Department and the International Trade Commission. Accordingly, we are extending the final determination in this countervailing duty investigation to not later than April 27, 1992.

In accordance with section 705 of the Act, and 19 CFR 355.20(c)(ii), the Department will direct the U.S. Customs Service to terminate the suspension of liquidation in the countervailing duty proceeding as of April 4, 1992. No cash deposits or bonds for potential countervailing duties will be required for merchandise which enters the United States on or after April 4, 1992. This suspension of liquidation will not be resumed unless and until the Department publishes a countervailing duty order. We will also direct the U.S. Customs Service to maintain the suspension of any entries suspended between December 6, 1991 and April 3, 1992, until the conclusion of this investigation.

The U.S. International Trade Commission is being advised of this postponement. This notice is published pursuant to section 705(d) of the Act.

Dated: February 12, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-3959 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-028]

#### **Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a request from the American Chain Association, the petitioner in this proceeding, the Department of Commerce has conducted an administrative review of the antidumping finding on roller chain,

other than bicycle, from Japan. The review covers nine manufacturers/exporters of this merchandise to the United States and the period April 1, 1990 through March 31, 1991. The review indicates the existence of dumping margins.

Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** February 20, 1992.

#### **FOR FURTHER INFORMATION CONTACT:**

Tom Prosser, Jay Camillo, or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On October 22, 1990, the Department of Commerce (the Department) published in the *Federal Register* (55 FR42608) the final results of its last administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226; April 12, 1973). In April, 1991, the petitioner, the American Chain Association, requested, in accordance with § 353.22(a)(1) of the Department's Regulations (19 CFR 353.22(a)(1)), that we conduct an administrative review of the period April 1, 1990 through March 31, 1991. We published a notice of initiation of review on May 21, 1991 (56 FR 23271). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930, as amended (the "Tariff Act").

##### **Scope of the Review**

Imports covered by the review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyer chain.

This review also covers leaf chain, which consists of a series of link plates

alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain is currently classified under the *Harmonized Tariff Schedule* (HTS) subheadings 7315.11.00 through 7619.90.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers Hitachi Metals Techno Ltd., Izumi, Pulton Chain, Pulton Chain/HIC, Pulton Chain/I & OC, Sugiyama/Hokoku, Sugiyama I & OC, Sugiyama/Harima Enterprises/San Fernando (Japan), and R.K. Excel (formerly Takasago), for the period April 1, 1990 through March 31, 1991. Daido Kogyo/Daido Corp. and Enuma/Daido Corp. are being reviewed separately, and their preliminary results will be published in a later notice.

##### **United States Price**

In calculating United States price (USP), the Department used both purchase price (PP) and exporter's sales price (ESP), both as defined in section 772 of the Tariff Act. For those sales made directly to unrelated parties prior to importation into the United States, we based USP on PP. PP was based on the packed, FOB Japanese port price, or CIF duty-paid, delivered prices to unrelated purchasers in the United States. Where applicable, we made deductions for brokerage and handling charges, foreign inland freight, ocean freight, marine insurance, discounts, U.S. import duties, and U.S. inland freight. No other adjustments were claimed or allowed.

Where sales to the first unrelated purchaser occurred after importation into the United States, we based USP on ESP. We calculated ESP based on the packed, CIF duty-paid, or delivered price to unrelated purchasers in the United States. Where applicable, we made deductions for brokerage and handling, foreign inland freight, ocean freight, marine insurance, discounts, U.S. import duties, U.S. inland freight, commissions, credit expenses, and indirect selling expenses. No other adjustments were claimed or allowed.

##### **Foreign Market Value**

In calculating foreign market value (FMV), the Department used home market price, as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Where the home market was not viable, the Department used third-country sales as a basis for



comparison, in accordance with section 773(a)(1)(B) of the Tariff Act, or constructed value (CV), in accordance with section 773(a)(2) of the Tariff Act.

Home market price was based on a packed, FOB or CIF, delivered price to unrelated purchasers in Japan or in the third country. Third country price was based on the packed, delivered price to purchasers in third countries. We calculated CV as the sum of materials, fabrication costs, general expenses, profit, and U.S. packing. We added statutory or actual amounts for the general expenses and profit components of CV, as appropriate.

For PP sales comparisons, where applicable, we made deductions from FMV for inland freight, insurance, brokerage and handling costs, and cash discounts. Where applicable, we made adjustments for differences in packing, credit expenses, advertising expenses, warranty expenses, technical services, and differences in merchandise. Where third country sales were used as the basis for FMV we also deducted ocean freight and marine insurance. For ESP comparisons, we deducted credit expenses, advertising expenses, and inland freight. Where applicable, we also deducted indirect selling expenses, limited to the amount of U.S. commissions and indirect selling expenses. No other adjustments were claimed or allowed.

For U.S. sales for which we could not find matching sales or derive constructed values, we used the best information available (BIA) as the basis for FMV. As BIA we used the highest calculated rate for a respondent in this review, the 12.68 percent rate calculated for Hitachi.

#### Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following weighted-average margins exist:

Manufacturer/ exporter	Time period	Margin [per- cent]
Hitachi Metals Techno, Ltd.	04/01/90-03/31/91	12.68
Izum...	04/01/90-03/31/91	0.13
Pulton Chain...	04/01/90-03/31/91	6.97
Pulton Chain/HIC	04/01/90-03/31/91	15.92
Pulton Chain/I & OC	04/01/90-03/31/91	0.10
Sugiyama/Hokoku...	04/01/90-03/31/91	0.38
Sugiyama/I & OC	04/01/90-03/31/91	5.83
Sugiyama/Harima Enterpr./San Fernando (Japan)	04/01/90-03/31/91	0.00
PK Excel (Takasago)	04/01/90-03/31/91	9.87

<sup>1</sup> No shipments during the period. Rate is from the last period in which there were shipments.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentages stated above. The Department will issue appraisal instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of roller chain, other than bicycle, from Japan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the company-specific rate published in the final determination covering the most recent previous review; (3) if the exporter is not a firm covered in this review, previous reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of the most recently completed review of the manufacturer; and (4) the cash deposit rate for any future entries from all other manufacturers or exporters who are not covered in this or prior administrative reviews, and who are unrelated to any firms listed above, or any previously reviewed firm, will be the "All Others" rate established in the final results of this administrative review. This rate represents the highest rate for any firm

in this administrative review (whose shipments to the United States were reviewed), other than those firms receiving a rate based entirely on the best information available. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's Regulations (19 CFR 353.22).

Alan M. Dunn,  
Assistant Secretary for Import  
Administration.

[FR Doc. 92-3963 Filed 2-19-92; 8:45 am]  
BILLING CODE 3510-DS-M

#### National Oceanic and Atmospheric Administration

##### Marine Mammals

**AGENCY:** National Marine Fisheries  
Service, NOAA.

**ACTION:** Issuance of interim scientific  
research permit (P166D).

On December 2, 1991, notice was published in the *Federal Register* (56 FR 61232) that an application had been filed by Louis M. Herman, Ph.D., Kewalo Basin Marine Mammal Laboratory, University of Hawaii at Manoa, 1129 Ala Moana Boulevard, Honolulu, Hawaii 96814, for a Permit to harass annually, over a five-year period, up to 400 humpback whales (*Megaptera novaeangliae*) during observational/photo-identification/sound playback studies and aerial surveys throughout the year in humpback whale seasonal breeding and feeding habitats in the North Pacific (conduct of 1992 field research to be limited to the Kohala Coast of Hawaii and all coasts of Oahu).

During review of that application, the applicant was served with a Notice of Violation and Assessment (NOVA) with respect to alleged violations of a previous permit and Notice of Intent to Deny the Permit (NIDP) for which the applicant is currently applying. As a result of an administrative hearing on February 6/7, 1992, NMFS has issued an Interim Permit to Dr. Herman, with special conditions including the requirement to carry a NMFS enforcement agent on all research vessels and aircraft during operations. The Interim Permit will be effective only



until NOAA renders a final decision on the NOVA and NIDP.

Notice is hereby given that on February 10, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued an Interim Permit to the above applicant to take by approach and/or inadvertent harassment, as defined below, up to 400 humpback whales, subject to certain conditions set forth therein. "Take" shall be defined as all approaches to humpback whales closer than 100 yards and any and all incidents of harassment, as defined in 50 CFR 222.31(a)(4). All approaches and incidents of harassment shall be counted against the number of animals authorized to be taken under the Interim Permit.

Issuance of this Interim Permit, as required by the Endangered Species Act of 1973, is based on the finding that the Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the Act. This Permit was also issued in accordance with and is subject to Parts 220-222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Interim Permit and associated documents are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, Maryland 20910 (301/713-2289);

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822-2396 (808/955-8831); and

Director, Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd., suite 4200, Long Beach, California 90802-4213-7415 (213/514-6196).

Dated: February 10, 1992.

Charles Karnella,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-3881 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-22-M

#### Marine Mammals

**AGENCY:** National Marine Fisheries Service, NOAA.

**ACTION:** Request for modification of permit (P245B).

Notice is hereby given that Pacific Whale Foundation, Kealia Beach Plaza, 101 N. Kihei Road, suite 212, Kihei, Maui, Hawaii 96753-8833 has requested a modification of Permit No. 565, issued on September 23, 1986 (51 FR 35386), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), The Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531-1544), and the regulations governing endangered fish and wildlife permits (50 CFR parts 217-222).

Permit No. 565 authorizes the inadvertent harassment, over a five-year period, of humpback whales (*Megaptera novaeangliae*) in Hawaiian and Alaskan waters, during the conduct of observational/photo-identification studies.

The Permittee is requesting that the Permit be modified to extend its duration through April 30, 1992. Activities conducted under the proposed extension would be restricted to Hawaiian waters. The permittee is requesting authorization to inadvertently harass up to 1000 humpback whales during the course of observational/photo-identification studies which would be conducted in waters inside and adjacent to Maalaea Bay, and up to 1000 humpback whales during the course of aerial surveys which would be conducted throughout the major Hawaiian Islands area.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this modification request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above modification request are available for review by interested persons in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, Maryland 20901 (301/713-2289);

Director, Southwest Regional Office, National Marine Fisheries Service, NOAA, 501 W. Ocean Blvd., suite 4200, Long Beach, California 90731-7415 (213-514-6196); and

Coordinator, Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, Hawaii 96822-2396 (808-955-8831).

Dated: February 13, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-3882 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-22-M

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

##### Amendment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Panama

February 13, 1992.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs increasing a limit.

**EFFECTIVE DATE:** February 21, 1992.

**FOR FURTHER INFORMATION CONTACT:** Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States has agreed to increase the current designated consultation level for Categories 347/348 for the period April 1, 1991 through March 31, 1992.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see



Federal Register notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 65045, published on December 13, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Memorandum of Understanding dated November 6, 1991, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

February 13, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of cotton textile products in Categories 347/348, produced or manufactured in Panama and exported during the twelve-month period which began on April 1, 1991 and extends through March 31, 1992.

Effective on February 21, 1992, you are directed to amend the December 10, 1991 directive to increase the limit for Categories 347/348 to 450,000 dozen<sup>1</sup>.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-3906 Filed 2-19-92; 8:45 am]

BILLING CODE 3510-DR-F

## DELAWARE RIVER BASIN COMMISSION

### Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 26, 1992. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 1 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

An informal conference among the Commissioners and staff will be open

for public observation at 10 a.m. at the same location and will include reports on the upper Delaware ice jam project, amendment of Compact section 15.1(b) to fund the F. E. Walter Reservoir project, Basin drought status and scheduling of hearings for the Scenic Rivers water quality protection proposal.

The subjects of the hearing will be as follows:

### Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

#### 1. Village of Wurtsboro D-81-28 CP RENEWAL-2

An application for the renewal of a ground water withdrawal project to supply up to 17.3 million gallons (mg)/30 days of water to the applicant's distribution system from the Linton Lane Well. Commission approval on November 25, 1986 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 17.3 mg/30 days. The project is located in the Village of Wurtsboro, Sullivan County, New York.

#### 2. Meter Services Company D-85-35 CP RENEWAL

An application for the renewal of a ground water withdrawal project to supply up to 1.8 mg/30 days of water to the applicant's development (Village of Buckingham Springs) from Well Nos. 1 and 2. Commission approval on February 25, 1987 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 1.8 mg/30 days. The project is located in Buckingham Township, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

#### 3. Oxford Textile, Inc. D-89-62

An application for approval of an industrial wastewater treatment plant (IWTP) upgrade and expansion project. The applicant operates a 1.5 million gallons per day (mgd) IWTP which serves its fabric desizing and dyeing mill. The applicant will upgrade the treatment facilities via the activated sludge treatment process. The treated process, sanitary, and cooling water effluent will continue to discharge to Cat Swamp, a tributary of Furnace Brook which flows to the Pequest River. The plant is located at One Wall Street in

the Township of Oxford, Warren County, New Jersey.

#### 4. North Penn Water Authority D-91-4 CP

An application for approval of a ground water withdrawal project to supply water to the applicant's distribution system from new Well No. NP-74, and existing Well Nos. NP-61, NP-68, and H-12 which have been subject to long-term testing; to approve Well No. NP-73 which has been subject to long-term testing; to approve Well No. NP-73 which has been operating under Protected Area Permit No. D-85-62 PA; to transfer Well Nos. T-42, T-43, and T-44 from the North Wales Water Authority; and to renew the approval of Well No. H-8. The applicant has requested an increase in allocation of Well No. NP-73 from 0.64 to 2.93 mg/30 days, and an increase to total allocation from all wells from 251.94 mg/30 days to 281.87 mg/30 days. The projects are located in Hatfield Borough and Hatfield Township, Montgomery County; and East Rockhill and New Britain Townships, Bucks County, in the Southeastern Pennsylvania Ground Water Protected Area.

#### 5. Borough of Clayton D-91-21 CP

An application for approval of a ground water withdrawal project to supply up to 17.28 mg/30 days of water to the applicant's distribution system from new Well No. 5, and to limit the withdrawal from all wells to 27.7 mg/30 days. The project is located in Clayton Borough, Gloucester County, New Jersey.

#### 6. Washington Township Municipal Utilities Authority D-91-25 CP

An application for approval of a ground water withdrawal project to supply up to 76 mg/30 days of water to the applicant's distribution system from Well Nos. 10, 11 and 16; 37.2 mg/30 days from Well Nos. 14 and 17; 109 mg/30 days from Well Nos. 1-6, 8, 9 and 15; and to increase the existing withdrawal limit of 172.3 mg/30 days from all wells to 203 mg/30 days. The project is located in Washington Township, Gloucester County, New Jersey.

#### 7. Village of Delhi D-91-33 CP

A sewage treatment plant (STP) modification project to upgrade the applicant's existing 0.52 mgd STP, which is located in the Town of Delhi and serving the Village and Town of Delhi.

<sup>1</sup> The limit has not been adjusted to account for any imports exported after March 31, 1991.



Delaware County, New York. The upgraded STP will continue to discharge to the West Branch Delaware River in Water Quality Zone W1.

**8. The West County D-91-49 (D)**

A wastewater treatment project to remove volatile organic compounds from contaminated ground water withdrawn as part of a ground water remediation program at the applicant's industrial plant site. Up to 0.087 mgd of contaminated water will be treated by an air stripper and discharged along with non-contact cooling water via an existing stormwater discharge pipe to French Creek. The plant site is located just off Bridge Street in the Borough of Phoenixville, Chester County, Pennsylvania.

**9. Joseph Jackewicz, Sr., D-91-53**

An application for approval of a ground water withdrawal project to serve the applicant's existing agricultural irrigation system. The applicant requests approval of three new wells, (Townsend 1, Townsend 2 and Ranch Well) and to increase the existing withdrawal limit from 151.2 mg/30 days to 170 mg/30 days for all wells. Two existing surface water withdrawals, also serving the applicant's irrigation system, are proposed to remain at the combined total surface water withdrawal of 49.8 mg/30 days. The project is located near the Town of Magnolia, Kent County, Delaware.

**10. McGinley Mill, Inc. D-91-55**

An application for approval of a ground water withdrawal project to supply up to 9.72 mg/30 days of cooling water to the applicant's air conditioning and compressors from new Well No. 2, and to limit the withdrawal from all wells to 13.4 mg/30 days. The project is located in the Town of Phillipsburg, Warren County, New Jersey.

**11. Township of Pemberton D-91-70 CP**

An application for approval of a ground water withdrawal project to supply up to 4.32 mg/30 days of water to the applicant's distribution system from new Well No. 8, and to retain the existing withdrawal limit from all wells of 38.75 mg/30 days. The project is located in Pemberton Township, Burlington County, New Jersey.

**12. BP Oil Company D-91-78**

A ground water remediation project which entails withdrawal of 0.072 mgd of petroleum product contaminated ground water for biological treatment via granulated activated carbon prior to discharge to an unnamed tributary of Cacoosing Creek. The proposed

treatment facility will serve the BP Oil Company plant site located in the Borough of Sinking Spring, Berks County, Pennsylvania.

**13. Upper Gwynedd Township D-91-88 CP**

A sewage treatment plant (STP) upgrade and expansion project which will provide tertiary treatment for an average monthly flow increase from 2.5 mgd to 4.5 mgd. The expanded STP will continue to serve portions of Upper Gwynedd and Whitpain Townships and continue to discharge treated effluent to Wissahickon Creek near the STP plant site located off Township Road in Upper Gwynedd Township, Montgomery County, Pennsylvania.

**14. Waste Management of Pennsylvania, Inc. D-91-90**

An application for two surface water withdrawals to provide water mainly for dust control and various other miscellaneous non-portable water uses associated with the applicant's landfill operations. Up to 200,000 gallons per day (gpd) will be withdrawn from Manor Lake immediately south of the Tullytown Resource Recovery Facility landfill site located in the Borough of Tullytown, and up to 200,000 gpd from the Van Sciver Lake watershed adjacent to the GROWS landfill site located in Falls Township, all in Bucks County, Pennsylvania.

**15. Pedricktown Cogeneration Limited Partnership D-91-98**

An application for approval of a ground water withdrawal project to supply up to 5.6 mg/30 days of water to the applicant's cogeneration facility from new Well No. PW-2, and to increase the existing withdrawal limit from all wells of 8.6 mg/30 days to 14.26 mg/30 days. The project is located in Oldmans Township, Salem County, New Jersey.

Documents relating to these items may be examined at the Commission's offices. Preliminary docket are available in single copies upon request. Please contact George C. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Dated: February 11, 1992.

Susan M. Weisman,  
Secretary.

[FR Doc. 92-3908 Filed 2-19-92; 8:45 am]

BILLING CODE 6350-01-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP92-245-000]

#### Iroquois Gas Transmission System, L.P.; Intent to Prepare an Environmental Assessment for the Iroquois-Wright Compressor Station Project and Request for Comments on Its Scope

February 13, 1992.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) on the facilities proposed in the above-referenced docket pertaining to an expansion of the Iroquois Gas Transmission System, L.P. (Iroquois) known as the *Iroquois-Wright Compressor Station Project*.

Iroquois is seeking a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act to:

- Construct and operate a new compressor station at approximately milepost 192 of its existing system in the town of Wright, New York;
- Construct and operate ancillary facilities at the proposed compressor station; and
- Transport increased volumes of Canadian natural gas to two customers in New York and Massachusetts.

#### Proposal

On December 16, 1991, Iroquois applied in Docket No. CP92-245-000 to the Commission for authorization to transport 65,200 Mcf/d (thousand cubic feet per day) of natural gas through its pipeline system to Niagara Mohawk Power Corporation (Niagara Mohawk) and Dartmouth Power Associates, Inc. (Dartmouth Power). Iroquois would transport up to 51,000 Mcf/d of gas for Niagara Mohawk to an existing interconnection with CNG Transmission Corporation (CNG) in the town of Canajoharie, Montgomery County, New York. CNG would redeliver the gas to Niagara Mohawk to existing delivery points.

Iroquois would also deliver up to 14,200 Mcf/d to Tennessee Gas Pipeline Company (Tennessee) at the existing Wright, New York interconnection for Dartmouth Power. Tennessee would redeliver the 14,200 Mcf/d of gas to Algonquin Gas Transmission Company for ultimate delivery to Dartmouth Power. This application is related to Docket Nos. CP91-2206-000 and CP89-661-005. The facilities required by Tennessee to transport the gas for



Dartmouth Power were analyzed along with other facilities in the Electric Generation Transportation Project EA, issued by the Commission on December 12, 1991. The facilities analyzed in this EA included approximately 50.2 miles of pipeline and 4,100 horsepower (hp) of compression.

The general location of the proposed Wright Compressor Station is identified in figure 1. Figure 2 shows a plot plan of the proposed 11,000-hp compressor station.<sup>1</sup> This compressor station would consist of two 5,500-HP Solar Centaur H turbo-compressor packages and ancillary facilities. Iroquois currently owns a 53.2-acre parcel of land on which the station would be sited. In order to construct the station, Iroquois would disturb and fence about 2.5 acres of its parcel.

The proposed compressor station would be constructed adjacent to the existing Wright Meter Station. Iroquois proposes to construct three buildings to house the compressor facilities. Two of the proposed buildings would house compressor units, while the third building would be constructed to house the control equipment for the station. Iroquois proposes to start construction in the spring of 1992, with operation of the compressor station to begin on November 1, 1992.

#### Construction Timing and Techniques

Construction of the Wright Compressor Station would require approximately 6 months and an average work force of 75 people. The first step in construction of the compressor station would involve grading of the site. This would be followed by installation of the foundations for the proposed compressors and buildings, erection of the buildings, installation of the compressors and associated piping and wiring, testing of the units, and final grading and landscaping.

The Wright Compressor Station would require the development of its own permanent water supply, septic system, and access roads. These activities would occur along with the construction of the compressor station.

#### Comment Procedures

Based on a preliminary analysis of the application for the Wright Compressor Station and the environmental

information provided by the applicant, the staff has identified the following issues which will be discussed in the EA:

- Air and noise impacts associated with the construction of the Wright Compressor Station;
- Visual and aesthetic impacts associated with construction and operation of the Wright Compressor Station; and
- Alternatives to the proposed Wright Compressor Station to avoid impacts related to this new facility.

Comments are also solicited on any additional topics of environmental concern. Comments recommending that the FERC staff address specific environmental issues should be supported with a detailed explanation of the need to consider such issues.

A copy of this notice and request for comments on environmental issues has been sent to Federal, state and local environmental agencies, parties in this proceeding, and the public. *Comments on the scope of the EA should be filed as soon as possible but no later than March 13, 1992.* All written comments must reference the docket listed above and be addressed to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

A copy of the comments should also be sent to: Mr. Mark Jensen, Project Manager, Federal Energy Regulatory Commission, room 7312, 825 North Capitol Street, NE., Washington DC 20426.

The EA will be based on the staff's independent analysis of the proposal and, together with the comments received, will comprise part of the record to be considered by the Commission in this proceeding. The EA may be offered as evidentiary material if an evidentiary hearing is held in this proceeding. In the event that an evidentiary hearing is held, anyone not previously a party to this proceeding and wishing to present evidence on environmental or other matters must first file with the Commission a motion to intervene, pursuant to rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

Additional information about the proposal is available from Mr. Mark Jensen, telephone (202) 208-1121.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3886 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. EL85-19-118 and EL85-19-119]

#### Nooksack River Basin, Washington, Skagit River Basin, Washington; Intent To Prepare Separate Environmental Impact Statements and Conduct Scoping Meetings

February 13, 1992.

The staff of the Federal Energy Regulatory Commission (Commission) has determined that licensing 17 proposed hydroelectric power projects in the Nooksack and Skagit River Basins, listed below, would constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 and the Commission's regulations. Therefore, the staff will prepare separate environmental impact statements (EIS) for the Nooksack and Skagit River Basins.

#### Skagit River Basin Projects

Thunder Creek Project No. 3913  
Rocky Creek Project No. 4376  
Diobsud Creek Project No. 4437  
Boulder Creek Project No. 6984  
Jordan Creek Project No. 9787  
Irene Creek Project No. 10100  
Jackman Creek Project No. 10269  
Rocky Creek Project No. 10311  
Anderson Creek Project No. 10416

#### Nooksack River Basin Projects

Nooksack Falls Project No. 3721  
Boulder Creek Project No. 4270  
Deahorse Creek Project No. 4282  
Canyon Creek Project No. 4312  
Wells Creek Project No. 4628  
Glacier Creek Project No. 4738  
Canyon Lake Project No. 9231  
Clearwater Creek Project No. 10952

The staff's EIS's will objectively consider both site specific and cumulative environmental impacts of the projects and reasonable alternatives, and will include an economic, financial, and engineering analysis.

#### Scoping Meetings

The major issues to be evaluated in these EIS's will be discussed at two scoping meetings, both scheduled to be held on Wednesday, February 26, 1992. Prior to this date, a scoping document (Scoping Document I) will be mailed to all recipients of this notice; copies will also be available at the scoping meetings. Scoping Document I will be subsequently revised to reflect any new information provided at the scoping meetings (Scoping Document II), which will be mailed to all parties, interested agencies, Indian tribes, and individuals.

All interested individuals, organizations, Indian tribes, and

<sup>1</sup> The figures referred to in this notice are not being printed in the Federal Register, but have been included in the mailing to all those receiving this notice. Copies are also available from the Commission's Public Reference Branch, Room 3104, 941 Capitol Street, NE., Washington, DC 20426, telephone (202) 208-1371.



agencies are invited to attend the scoping meetings and assist staff in identifying the scope of environmental issues that should be analyzed in the EIS's. Individuals presenting statements for the record will be asked to identify themselves and indicate the entity they represent.

The first scoping meeting will be held from 9:30 a.m. to 12:30 p.m. at the Washington Department of Wildlife, Region 4 Office conference room, 16018 Mill Creek Boulevard, Mill Creek, Washington 98012. This meeting will focus on resource agency concerns. The second meeting will be held from 7 p.m. to 10 p.m. at the Skagit County Administration Building Hearing rooms B and C, 700 South Second Street, Mount Vernon, Washington 98273. This meeting is primarily designed for public input.

#### Objectives

At the scoping meetings, the staff will: (1) Present environmental issues that are identified for coverage in the EIS; (2) receive input from meeting participants on the issues presented; (3) clarify the significance of issues; (4) identify any additional issues that need treatment in the EIS; and (5) identify those issues that do not merit treatment in the EIS.

#### Procedures

Both scoping meetings will be recorded by a stenographer and all statements (oral and written) will become part of the Commission's public record for Docket No. EL85-19-118 and EL85-19-119. Interested persons who are unable to attend, or do not choose to speak at the scoping meetings, may submit written statements for inclusion in the public record. All written comments must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, until March 31, 1992.

All written correspondence should clearly show on the first page of each document one of the following captions: Nooksack River Basin Docket No. EL85-19-118 or the Skagit River Basin Docket No. EL85-19-119. If a single letter or other piece of correspondence includes information about both basins, the commenter should separate the information and identify the information by river basin.

Further, parties are reminded of the Commission's Rules of Practice and Procedure, requiring parties filing documents about specific project(s) with the Commission, to serve a copy of the document on each person whose name is on the official service list for that specific project(s).

For further information, please contact Tom Dean at (202) 219-2778 about projects located in the Nooksack River Basin, and Lee Emery at (202) 219-2779 about projects located in the Skagit River Basin.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3887 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP92-5-000; FERC No. JD92-00603T]

#### Wyoming Oil and Gas Conservation Commission, et al.; Preliminary Finding

February 12, 1992.

The Wyoming Oil and Gas Conservation Commission (Wyoming) and the United States Department of the Interior, Bureau of Land Management (BLM) determined that the Second Frontier Formation underlying approximately 69,000 acres in Sweetwater County qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978.

For the reasons discussed below, the Commission issues this notice preliminarily finding that the determination is not supported by substantial evidence.

#### Wyoming's determination and BLM's concurrence

On October 15, 1991, the Commission received Wyoming's notice determining that the Second Frontier Formation underlying approximately 69,000 acres in Sweetwater County qualifies as a tight formation. The Second Frontier Formation, which is approximately 200 feet thick, consists of the following four distinct sandstones:

- (1) Upper Second Frontier "A" (upper F2A);
- (2) Middle Second Frontier "A" (middle F2A);
- (3) Lower Second Frontier "A" (lower F2A); and
- (4) Second Frontier "B" (F2B).

The northern border of the recommended area abuts an area that was designated as a tight formation in 1982.<sup>1</sup> The closest Second Frontier well in the area designated as a tight formation in 1982 is about six miles north of the northern boundary of the recommended area.<sup>2</sup> The Southern

<sup>1</sup> Wyoming Docket No. 113-81 and FERC Docket No. RM79-76 (Wyoming-9). This proceeding covered over 253,000 acres and designated the entire Frontier Formation, consisting of the First Frontier, Second Frontier, and Third Frontier Sands as a tight formation.

<sup>2</sup> The record for the Wyoming-9 area shows that the Woods Petroleum Steamboat Mtn. Unit #1 well

border of the recommended area abuts the Marianne Field, where at least eight gas wells have been completed in the upper F2A sand, the principal pay sand, or commingled with the F2B sand and/or the Third Frontier sand. Marianne Field gas wells appear to exhibit good to excellent permeability and will produce naturally if air drilled. A Marianne well that is about 2 miles south of the recommended area has produced over 1.5 Bcf from the F2A and F2B sands since it was drilled in 1979.

Wyoming concluded that the Second Frontier Formation meets the Commission's 0.1 millidarcy (md) guideline for permeability based on log-derived permeability data from 19 of the 20 wells drilled within the recommended area. The record shows, however, that only two of these wells—the Burton Hawks' #36-1 (#36-1) and Amoco Chaplin #7-1 (#7-1)—were actually completed for production in the Second Frontier Formation; the other 18 holes are dryhole penetrations. Both wells that are completed for production in the Second Frontier Formation are located along the southern boundary of the recommended area.<sup>3</sup>

By letter dated December 31, 1991, BLM concurred with Wyoming's determination.

#### Staff's Tolling Letter

By letter dated November 27, 1991, staff requested Wyoming to explain which wells it used to determine the permeability characteristics of the formation and how it determined that a pay section existed in all of its data wells since 18 of the wells were dryholes. In light of the limited amount of relevant permeability and pre-stimulation flow rate data in the notice, staff also requested Wyoming to explain why the usable well data supports the designation of the entire recommended area.

#### Wyoming's Response

Wyoming's January 2, 1992 response asserts that using openhole log analyses of dry holes as data wells is appropriate because the wells "provide a point of control and their permeability can be analyzed using current technology."<sup>4</sup>

was completed in the Second Frontier Formation but does not identify which of the four sands was perforated. The Second Frontier in this well is encountered at 11,850 feet, almost 5,000 feet deeper than the average depth to the top of the Second Frontier within the subject area.

<sup>3</sup> The #36-1 well is completed in the F2B sand and the #7-1 well is completed in the upper F2A sand.

<sup>4</sup> Under § 275.202(b), the 45-day review period commences when a response is received to a tolling letter.



Wyoming maintains that "this technology has proved that the average permeability within the application area is less than 0.1 md" and asserts that the log-derived permeabilities were verified by the mathematical simulator which is based on the reservoir characteristics of the upper F2A sand found in the Marianne Field. Wyoming's response does not explain how it determined that gas bearing pay sections exist in the data wells used to calculate Second Frontier permeability values.<sup>5</sup>

Wyoming also explained that the good performance of the #7-1 well, which produced 1,203 Mcfd before stimulation, was because it was air drilled.<sup>6</sup> Wyoming asserts that this type of drilling operation is extremely risky and, in the majority of cases, unsuccessful.

#### Discussion

The determination does not contain substantial evidence showing that the estimated average *in situ* permeability meets the Commission's guideline.

§ 271.703(c)(2) of the Commission's regulations establishes guidelines that a formation must meet to qualify as a tight formation. Among other things, the estimated average *in situ* gas permeability, throughout the pay section, must be expected to be 0.1 md or less.

The record shows that Wyoming and BLM used data from 18 dryholes in the Second Frontier Sand in determining that the estimated average *in situ* permeability meets the Commission's guideline. We find that Wyoming's and BLM's use of permeability data based on electric logs from dryholes is inappropriate. The regulations require the *in situ* permeability to be estimated throughout the pay section because they are focused on the actual portions of a formation that will produce gas.<sup>7</sup> The log analysis data shows that most of the Second Frontier Formation evaluated in the dryholes has very high water saturations and little or no space to hold gas. Therefore, the dryholes do not appear to provide data upon which one could base an estimate of the Second

Frontier's *in situ* gas permeability in those portions of the formation that will produce gas.

We note that the permeability value for one of the wells completed in the Second Frontier Formation (the #36-1) is 0.003 md,<sup>8</sup> and that no log-derived permeability value is available for the other well (the #7-1 well).<sup>9</sup> We also note that the record also indicates that there is good permeability to gas in the sand in that area since the #7-1 well produced substantial gas volumes from the upper F2A sand without stimulation.

In view thereof, therefore, the Commission finds that the determination does not contain substantial evidence showing that the estimated average *in situ* permeability meets the Commission's guideline.

The determination does not contain substantial evidence showing that the expected stabilized pre-stimulation flow rate meets the Commission's guideline.

In order to qualify as a tight formation, the stabilized production rate, against atmospheric pressure, of wells completed for production in the formation must not be expected to exceed the maximum allowable in § 271.703(c)(2)(i)(B) of the commission's regulations. The applicable maximum allowable for the Second Frontier Formation is 251 Mcfd.

Wyoming based its conclusion that the expected stabilized pre-stimulation flow rate meets the Commission's guideline on a computer generated reservoir simulation of the characteristics of only the upper F2A sand. However, the record shows that the average pre-stimulation flow rate for the two wells completed for production in the Second Frontier Formation exceeds the guideline of 251 Mcfd. We find that it is inappropriate to use a model when actual flow rate data is available for wells completed in the recommended formation in the recommended area.<sup>10</sup>

Additionally, the data in the record appears to show that the area were the two wells are completed for production has more in common with the Mariane Field gas wells just outside the recommended area than with the area to

the north which has already been designated as a tight formation. For example, less than one mile to the southwest, Burton Hawks' MADE X #12-1 well produced 802 Mcfd prior to stimulation and appears to exhibit good permeability to gas. Other Marianne Field wells adjacent to the recommended area also exhibit upper F2A sand characteristics that are similar to the #7-1 well (i.e., low water saturations and high pre-stimulation flow rates). The #7-1 is an air drilled Marianne Field upper F2A sand completion which initially produced 1,203 Mcfd without stimulation.

Therefore, we find that the record does not contain substantial evidence showing that the expected stabilized prestimulation flow rate meets the Commission's guidelines.

Under § 275.202(a) of the regulations, the Commission may make a preliminary finding, before any determination becomes final, that the determination is not supported by substantial evidence in the record. Based on the foregoing facts, the Commission hereby makes a preliminary finding that Wyoming's and BLM's determination is not supported by substantial evidence in the record upon which it was made. The jurisdictional agencies or the applicant may, within 30 days from the date of this preliminary finding, submit written comments and request an informal conference with the commission pursuant to § 275.202(f) of the regulations. A final Commission order will be issued within 120 days after the issuance of this preliminary finding.

By direction of the Commission.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3888 Filed 2-19-92; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. OR92-4-000]

#### State of Alaska v. Endicott Pipeline Co.; Complaint

February 12, 1992.

Take notice that on January 31, 1992, The State of Alaska (Alaska), pursuant to sections 13 and 16 of the Interstate Commerce Act, 49 U.S.C. 13, 16 and Rules 206 and 207 of the Federal Energy Regulatory Commission's Rules of Practice, 18 CFR 385.206 and 385.207, tendered for filing a complaint for relief from the tariff rate charged by Endicott Pipeline Company (Endicott).

Alaska requests that the Commission institute an investigation of Endicott's rate during the period February 1, 1990

<sup>5</sup> The response does not provide any new information regarding the permeability characteristics of all four sands of the Second Frontier Formation.

<sup>6</sup> Air drilling causes the least damage to the reservoir since water-laden muds are not used. Invasive water-laden muds reduce gas flow because they damage the face of the formation. As a result, data from an air-drilled well provides a more accurate indication of a reservoir's *in situ* permeability characteristics.

<sup>7</sup> The permeability to gas decreases as water saturation increases, therefore, gas permeabilities in predominately water saturated intervals are not generally an appropriate measure of *in situ* permeability in gas saturated pay sections within a formation.

<sup>8</sup> This permeability value only applies to one sand.

<sup>9</sup> A permeability value isn't available because a washout (i.e., good porosity) across the sand prevented accurate measurements by the downhole logging equipment.

<sup>10</sup> We note that no attempt was made to match the actual production of the #13-1 well, which is only 1.5 miles southwest of the #7-1 well, to the simulation model. The #13-1 well, which gauged 2,400 Mcfd during drilling, flowed 1,597 Mcfd without stimulation after being perforated in the upper F2A and F2B sands, a rate well in excess of the Commission's guideline.



through the present, and urges the Commission to adopt a variable tariff methodology to reflect trends of increasing throughput and decreasing net property. However, Alaska requests that a hearing on its complaint not commence until after issuance of a Commission order on an initial decision on Endicott's rates issued in May 1991.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211. All such motions or protests should be filed on or before March 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. Answers to this complaint shall be due on or before March 13, 1992.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3889 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-188-007]

**El Paso Natural Gas Co., Amendment to Motion of El Paso Natural Gas Company to Place Tariff Sheets into Effect**

February 12, 1992.

Take notice that on January 30, 1992, El Paso Natural Gas Company ("El Paso"), pursuant to § 385.215 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"), submitted an amendment to its motion to place tariff sheets into effect on January 1, 1992 in the captioned proceeding. El Paso states that tendered 1st Sub First Revised Sheet No. 118 contained in its FERC Gas Tariff, First Revised Volume No. 1-A reflects a revised billing determinant for Citizens Utilities Company ("Citizens"). El Paso has requested that the tendered tariff sheet be substituted for its respective counterpart and permitted to become effective January 1, 1992.

El Paso states that on December 30, 1991 at Docket No. RP91-188-006, El Paso, pursuant to section 4(e) of the Natural Gas Act and § 154.67(a) of the Commission's Regulations Under the Natural Gas Act, filed a motion to place into effect on January 1, 1992 certain

tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1-A which, among other things, included a billing determinant for Citizens. El Paso states that such billing determinant reflected succession by Citizens of Southern Union Gas Company's ("Southern Union") properties in northern Arizona and the consolidation with all of Citizens' southern Arizona properties. El Paso noted in the motion that, among other things, on December 27, 1991 at Docket No. RP92-69-000 (redocketed as Docket No. GT92-11-000), El Paso filed a revision to Rate Schedule T-3 to establish billing determinants applicable to Citizens and the removal of Southern Union billing determinants applicable to the State of Arizona.

El Paso states that subsequently El Paso and Citizens entered into a firm Transportation Service Agreement under Rate Schedule T-3 consolidating Citizens' distribution systems in southern Arizona with those properties recently acquired from Southern Union in northern Arizona. El Paso states that the Citizens' Nogales Electric Generating Power Plant Delivery Point, has been excluded from firm transportation service under Rate Schedule T-3. In connection with the firm Transportation Service Agreement, El Paso and Citizens have agreed to a restated billing determinant which relates solely to El Paso's proposal in Docket No. RP91-188-000 to implement new rates on its system, which proposal has been accepted by the Commission subject to refund. Therefore, El Paso is restating the billing determinants in Docket No. RP91-188-000 from 75,761 dth to 69,353 dth for Citizens southern and northern Arizona distribution system deliveries. El Paso states that the proposed revision establishes a billing determinant for Citizens effective January 1, 1992 and does not impact El Paso's remaining customers.

El Paso has requested that the Commission accept the amendment to the motion and, to the extent deemed necessary, moves that the tendered tariff sheet be substituted for its counterpart and be permitted to be placed into effect on January 1, 1992.

El Paso states that copies of the filing were served upon each person designated on the official service list compiled by the Secretary in Docket No. RP91-188-000, and otherwise, upon all interstate pipeline system transportation and sales customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance

with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Louis D. Cashell,

Secretary.

[FR Doc. 92-3890 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI92-23-000]

**Equitable Resources Energy Co. (Successor-in-Interest to Maxus Exploration Co.); Application**

Dated: February 12, 1992.

Take notice that on January 13, 1992, Equitable Resources Energy Company (EREC) of 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed an application pursuant to Section 7 of the Natural Gas Act and Parts 154 and 157 of the Federal Regulatory Commission's (Commission) regulations thereunder as successor-in-interest to Maxus Exploration Company (Maxus) for a certificate of public convenience and necessity to continue the sale previously made by Maxus under its certificate in Docket No. CI69-2 and related FERC Gas Rate Schedule No. 24, all as more fully set forth in the application which is on file with the commission and open for public inspection.

Effective July 1, 1991, Maxus assigned to EREC its interest in the production underlying a May 23, 1968 contract.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1992, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be



unnecessary for EREC to appear or to be represented at the hearing.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3891 Filed 2-19-92; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP92-111-000]

**Florida Gas Transmission Co.; Petition for Limited Waiver of Tariff Provisions**

February 12, 1992.

Take notice that on February 10, 1992, Florida Gas Transmission Company (FGT) hereby petitions the Commission for a limited waiver of Commission policy and FGT's FERC Gas Tariff in order to allow West Florida Natural Gas Company (West Florida) to add two delivery points to an existing firm transportation service agreement between FGT and West Florida while permitting West Florida to retain its existing priority in FGT's first-come, first-served queue.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3892 Filed 2-19-92; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TM92-12-4-000]

**Granite State Gas Transmission, Inc.; Proposed Changes in Rates**

February 12, 1992.

Take notice that on February 10, 1992, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581 filed Fifth Revised Sheet No. 24A in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on March 12, 1992.

According to Granite State, its filing flows through to its customer, Bay State Gas Company, revised take-or-pay buydown and buyout costs that will be

directly billed to Granite State by Algonquin Gas Transmission Company (Algonquin). It is further stated that on January 30, 1992, Algonquin filed in Docket No. TM92-12-20-000 to pass through to Granite State its share of take-or-pay costs allocated to Algonquin by CNG Transmission Corporation. Granite State further states that it has previously established in Docket No. RP91-122-000 the tariff procedures for flowing through the Algonquin take-or-pay costs and the instant filing is consistent with its approved tariff procedures.

Granite State further states that copies of its filing were served on its customers and the regulatory commissions of the states of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3893 Filed 2-19-92; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP92-112-000]

**Northwest Pipeline Corporation; Petition of Northwest Pipeline Corporation for Declaratory Order to Remove Uncertainty**

February 12, 1992.

Take notice that on February 10, 1992, Northwest Pipeline Corporation ("Northwest") submitted for filing a Petition for Declaratory Order pursuant to Rule 207 of the Commission's Rules of Practice and Procedure. Such Petition is for the purpose of resolving in the context of a Section 4 proceeding the uncertainty which currently exists regarding the appropriate rate treatment for the costs and revenues associated with new facilities (the "expansion facilities") to be constructed by Northwest pursuant to a certificate of public convenience and necessity which

Northwest anticipates receiving in Docket No. CP91-780-000. Northwest is seeking a determination of the appropriate rate design of the costs and revenues associated with the expansion facilities. The specific rates will be determined in a general rate proceeding involving a showing of costs and revenues.

Northwest states that copies of the filing have been served on its jurisdictional customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3894 Filed 2-19-92; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. GP92-7-000]

**Pike County Citizens for Justice v. Ashland Exploration, Inc.; Complaint**

February 12, 1992.

Take notice that on October 29, 1991, Pike County Citizens for Justice (Pike County) tendered for filing a complaint against Ashland Exploration, Inc., a subsidiary of Ashland Oil, Inc. (Ashland).

Pike County asserts that Ashland has indicated that they are taking action pursuant to KRS 278.485, or a lease or a right-of-way agreement. Pike County states that it has a correspondence from Ashland that they intend to charge \$5.25 per thousand cubic feet (MCF), and stated that the rate is effective November 1, 1991. In the correspondence, Pike County asserts, Ashland further indicated that they reserve the right to unilaterally establish a new price from time to time, with fifteen days prior written notice and that, unless the customers and addressee return a letter indicating acceptance of the service, they intend to



discontinue any existing service to the customer.

Pike County states that many of the individuals who are members of the Pike County Citizens for Justice, have specific contractual agreements with the predecessors in title to Ashland Exploration, Inc. and those agreements specifically set forth a rate to be charged for the natural gas and those rates are substantially below the \$5.25 per thousand cubic feet (MCF) that Ashland attempts to mandate to the customers.

Pike County requests that the Commission conduct an investigation of the unilateral actions of Ashland and to hold any necessary hearing in order to address the grievance of the individuals comprising the Pike County Citizens for Justice.

Any person desiring to be heard or to protest said complaint should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 13, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. As Ashland has informally submitted an explanation of the basis for its rate increase, any further answer to the complaint must be submitted on or before February 25, 1992.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3895 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. FA90-19-000, RP91-186-000]

#### **Southern Energy Co.; Informal Settlement Conference**

February 12, 1992.

Take notice that an informal settlement conference will be convened in this proceeding commencing on Wednesday, March 4, 1992, at 11 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 285.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend.

Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations. (18 CFR 385.214)

For additional information, contact Betsy R. Carr at (202) 208-1240.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3896 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-11-001]

#### **Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff**

February 12, 1992.

Take notice that on January 30, 1992, Southern Natural Gas Company ("Southern") tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective March 1, 1992:

First Revised Sheet No. 45.03

First Revised Sheet No. 45.04

First Revised Sheet No. 30Z.11

Southern states that the purpose of this filing is to implement certain tariff revisions agreed to by Southern and protesting parties as a result of the technical conference held in Docket No. RP92-11-000 on January 7, 1992. The provisions allow firm sales customers to choose between alternate delivery point allocation procedures on a monthly basis and provide that an IT shipper which is bumped by an FT shipper nominating at an alternate receipt point can continue to serve its market for the following day of service unless it is the first day of the month or a day of curtailment or force majeure. Southern has been authorized by the protesting parties to represent that this filing constitutes a settlement of the protests filed in this docket. Southern has requested that these sheets be made effective March 1, 1992.

Southern states that copies of the filing will be served upon its jurisdictional purchasers, shippers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3897 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP92-95-000 and CP90-1874-003]

#### **U-T Offshore System; Compliance Filing and Proposed Changes in FERC Gas Tariff**

February 12, 1992.

Take notice that on February 11, 1992, U-T Offshore System (U-TOS) filed revised tariff sheets in compliance with the Federal Energy Regulatory Commission's December 31, 1991 order in Docket Nos. RP92-47-000 and CP90-1874-000. In addition, U-TOS filed a revised tariff sheet to reflect a rate increase of 0.25¢ per Mcf in its demand charge. U-TOS proposes that these tariff sheets become effective January 1, 1992.

U-TOS states that in compliance with the Commission's December 31, 1991 order, U-TOS filed Substitute First Revised Sheet No. 72 and First Revised Sheet No. 72-A to its Second Revised Volume No. 1. U-TOS states that it has also paid the \$34,550 filing fee for amendment of its certificate to continue its capacity brokering program as required by the Commission's December 31, 1991 order.

In addition, U-TOS claims that such filing fee substantially increases its regulatory expenses and is a known and measurable expense appropriate for inclusion in its cost of service. As a result, U-TOS submitted Supplemental Statement K which shows a recomputation of its demand charge to reflect the additional expense. U-TOS also filed Substitute Fourth Revised Sheet No. 5 to its Second Revised Volume No. 1 which reflects the resulting increase of 0.25¢ per Mcf in its demand charge.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party



must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3898 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-126-009]

### United Gas Pipe Line Co.; Compliance Tariff Filing

February 12, 1992.

Take notice that on January 29, 1992, United Gas Pipe Line Company (United) tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's (Commission) Regulations Under the Natural Gas Act, the following tariff sheets:

#### Third Revised Volume No. 1

Substitute Original Sheet No. 1  
First Revised Sheet No. 6  
Second Substitute Original Sheet No. 25  
First Revised Sheet No. 33  
Second Substitute Original Sheet No. 40  
First Revised Sheet No. 53  
Second Substitute Original Sheet No. 80  
Second Substitute Original Sheet No. 81  
Second Substitute Original Sheet No. 82  
Second Substitute Original Sheet No. 85  
First Revised Sheet No. 110  
Second Substitute Original Sheet No. 127  
Original Sheet No. 127A  
Original Sheet No. 127B  
Original Sheet No. 127C  
Original Sheet No. 127D  
Original Sheet No. 127E  
Original Sheet No. 127F  
Original Sheet No. 127G  
Original Sheet No. 127H  
Original Sheet No. 128  
Second Substitute Original Sheet No. 185  
First Revised Sheet No. 186  
First Revised Sheet No. 201  
First Revised Sheet No. 205  
First Revised Sheet No. 212  
First Revised Sheet No. 217  
First Revised Sheet No. 221  
First Revised Sheet No. 226  
First Revised Sheet No. 227

United states the tariff sheets serve to comply with the Commission's October 7, 1991 Order on Technical Conference and its December 30, 1991 Order Granting Rehearing in Part, Denying Rehearing in Part, and Granting Clarification in Docket No. RP91-126-003, *et al.*, to clarify certain language inconsistencies found in Third Revised Volume No. 1, and to include the terms of participation in High Island Offshore System's and U-T Offshore System's Experimental Capacity Brokering programs in United's Third Revised Volume No. 1.

### Sheets Filed To Comply With The Commission's October 7, 1991 and December 30, 1991 Orders

In order to comply with the Commission's October 7, 1991 and December 30, 1991 orders, United filed Second Substitute Original Sheet No. 81 to permit firm shippers unlimited access to supplemental receipt points.

United also filed First Revised Sheet No. 110, section 19.1 of the General Terms and Conditions, modifying it to state that United must notify a customer in writing of an imbalance exceeding the stated tolerance level.

### Sheets Filed To Clarify Tariff Language

United states it has filed several sheets to correct several minor language inconsistencies found after a review of its Third Revised Volume No. 1.

United states that the phrase "Equivalent Volume" was replaced with "Equivalent Quantities" on First Revised Sheet No. 53, Second Substitute Original Sheet No. 85, First Revised Sheet No. 201, and First Revised Sheet No. 217 to clarify reference to MMBtu, instead of Mcf. First Revised Sheet No. 53 has also been revised to eliminate an improper reference to "Transporter Receipt Points". The proper reference is to "Delivery Points".

Additionally, Second Substitute Original Sheet No. 82 has been revised to correct an improper section reference.

Second Substitute Original Sheet No. 185 and First Revised Sheet No. 226, Exhibit B for MRSDS and ITS respectively, have been revised to eliminate an improper reference to gas tendered by a customer for transportation. The correct reference is to delivery points for gas to be redelivered to customers.

Finally, First Revised Sheet No. 6, Second Substitute Original Sheet No. 25, First Revised Sheet No. 33, Second Substitute Original Sheet No. 40, and First Revised Sheet Nos. 186, 205, 212, 221, and 227 have been revised to eliminate references to Gas Research Institute charges. United states it resigned its GRI membership effective January 1, 1992. Authority for this change was granted by Commission Letter Order dated December 31, 1991 in Docket No. TM92-2-11-000.

### Sheets Filed To Include Capacity Brokering Terms

United states it has filed Second Substitute Original Sheet No. 127 and Original Sheet Nos. 127A through 127H in order to include in Third Revised Vol. No. 1 the terms of its participation in the Experimental Capacity Brokering programs on High Island Offshore

System and U-T Offshore System. These terms were approved by Letter Order dated August 15, 1991 and included in United's Second Revised Volume No. 1, but were inadvertently omitted during the creation of Third Revised Volume No. 1. United states that the terms contained in these tariff sheets are identical to those terms appearing in United's Second Revised Volume No. 1, except for section heading and numbering changes.

Additionally, United has filed Substitute Original Sheet No. 1, containing the Table of Contents, to reflect the inclusion of the Capacity Brokering terms in the General Terms and Conditions, Section 28.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before February 20, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 92-3899 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT92-9-000]

### Valero Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff

February 11, 1992.

Take notice that Valero Interstate Transmission Company (Vitco) on December 6, 1991, tendered for filing the following tariff sheets as required by Order 537 containing changes to its tariff language which require Shippers to provide appropriate certification including sufficient information to verify that each of its 311 transportation services qualifies under the Commission's regulations:

#### FERC Gas Tariff, First Revised Volume No. 1

1st Revised Sheet No. 51  
Original Sheet No. 73  
Original Sheet Nos. 74-75

Vitco states that this filing reflects changes in its tariff language to comply with the requirements of Order No. 537 issued September 20, 1991.

The proposed effective date of the above filing is January 8, 1992. Vitco



request a waiver of any Commission order or regulations which would prohibit implementation by January 6, 1992.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before February 19, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3900 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

#### Wisconsin Electric Power Co. Notice Soliciting Applications

[Project No. 2523—Wisconsin]

February 12, 1992.

On December 19, 1988, Wisconsin Electric Power Company, the existing licensee for the Oconto Falls Hydroelectric Project No. 2523, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Public Law 99-495. The original license for Project No. 2523 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Oconto River in Oconto County, Wisconsin. The principal project works consist of: (a) A dam which includes a 175-foot-long earth dike, a 120-foot-long gravity dam, a spillway with three Taintor gates, a 110-foot-long gravity dam, and a 1,350-foot-long earth dike; (b) a reservoir of 240 acres; (c) a powerhouse with an installed capacity of 1,320 kW; (d) a transmission line connection; and (e) appurtenant facilities.

Pursuant to § 16.20 of the Commission's regulations, the deadline for filing an application for new license and any competing license applications was December 31, 1991. No applications for license for this project were filed. Therefore, pursuant to § 15.25 of the Commission's regulations, the

Commission is soliciting applications from potential applicants other than the existing licensee.

Pursuant to § 16.19 of the Commission's regulations, the licensee is required to make available certain information described in § 16.7 of the Commission's regulations. Such information is available from the licensee at Real Estate Department, Public Service Building Room 452, 231 West Michigan Street, Milwaukee, WI 53201.

A potential applicant that files a notice of intent within 90 days from the date of issuance of this notice: (1) May apply for a license under part I of the Act and part 4 (except section 4.38) of the Commission's regulations within 18 months of the date on which it files its notice; and (2) must comply with the requirements of § 16.8 of the Commission's regulations.

Lois D. Cashell,

Secretary.

[FR Doc. 92-3901 Filed 2-19-92; 8:45 am]

BILLING CODE 6717-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-4105-6]

#### Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

**DATES:** Comments must be submitted on or before March 23, 1992.

**FOR FURTHER INFORMATION CONTACT:** Sandy Farmer at EPA, (202) 260-2740.

#### SUPPLEMENTARY INFORMATION:

##### Office of Air and Radiation

Title: New Source Performance Standard (NSPS) For Sewage Treatment Plant Incineration (Subpart O) (EPA No. 1063.05, OMB No. 2060-0035).

**Abstract:** This ICR is for an extension of an existing information collection in support of NSPS requirements as established by the Clean Air Act. Under the general NSPS requirements at 40 CFR 60.7-60.8 and the more specific requirements at 40 CFR part 61.7 and 40

CFR part 61.153-61.155, owners or operators of facilities subject to the NSPS must demonstrate compliance by fulfilling specific monitoring, reporting, and recordkeeping requirements. The information collected will be used by the EPA and State agencies for monitoring, inspection, and enforcement purposes.

Owners or operators of new plants must: (1) Notify the EPA of the facility's construction, (2) provide EPA with the anticipated and actual start-up dates of the facility, (3) perform an initial performance test and report the results to the EPA, and (4) notify the EPA of the continuous monitoring system demonstration.

Owners and operators of all subject facilities must: (1) Notify the EPA of any relevant physical or operational changes, (2) continuously monitor and record the pressure drop and the amount of oxygen in the incinerator exhaust gases upstream of the emission control device, (3) submit semiannually a report that includes the periods of 15 minutes or more during which the pressure of the wet scrubbing device fell below a specified level and the average oxygen content in the incinerator exhaust gas for each period of 1 hour or more that it exceeds a specified level.

In addition, owners and operators of incinerators with particulate emissions exceeding 0.38 grams/kilogram dry sludge input must: (1) Continuously monitor and record the temperature profile of the incinerator and sludge feed rate to the incinerator, (2) measure and record the fuel consumed for each 8-hour period of incinerator operation, and (3) record the moisture and volatile content of the sludge being incinerated daily. This additional information must be included in their semiannual report along with a record of the average scrubber pressure drop and average oxygen content of the incinerator exhaust over each one hour period.

Owners or operators of facilities with control devices other than wet scrubbers must seek EPA approval by submitting a plan for monitoring and recording incinerator and control device operation parameters and report semiannually on the measurements as described in the approved plan.

An estimated average of 80 facilities will be subject to the regulations with an average growth of 3 facilities per year over the next three years. The data collected by the monitoring and recordkeeping systems would be retained at the facility for a minimum of 2 years.

**Burden Statement:** Public reporting burden for this collection of information



is estimated to average 27 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 137 hours, annually.

Respondents: Sewage treatment plant incinerators.

Estimated Number of Respondents: 80.

Estimated Number of Responses Per Respondent: 2.

Estimated Total Annual Burden on Respondents: 15,104 hours.

Frequency of Collection:

Semiannually for existing facilities, on occasion for new facilities. Daily recordkeeping requirements.

Send comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC 20503.

Dated: February 11, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92-3950 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4105-5]

#### Technology Innovation and Economics Committee's Focus Group on Environmental Permitting of the National Advisory Council for Environmental Policy and Technology; Open Meeting

Under Public Law 92-463 (The Federal Advisory Committee Act), EPA gives notice of the next meeting of the Focus Group on Environmental Permitting of the Technology Innovation and Economics (TIE) Committee. The TIE Committee is a standing committee of the National Advisory Council for Environmental Policy and Technology (NACEPT), the external policy advisory committee to the Administrator of the EPA. The TIE Committee and NACEPT are seeking ways to enhance the effectiveness of the environmental management system in the United States. The meeting will convene March 11-12, 1992, at 9 a.m., at 1501 Wilson Boulevard, suite 1200, Arlington, VA 22209.

The purpose of the meeting is to continue the Focus Group's efforts to

produce a second report and recommendations, this one addressing the relationship between permitting and compliance policy, and pollution prevention, and identifying associated opportunities under TSCA, FIFRA, and EPCRA. At least the following themes raised by the Focus Group will be discussed:

- (1) Being effective with Agency resources
- (2) Implementing pollution prevention throughout EPA
- (3) Support, including improved training, technology transfer, and technical assistance, for industry and state and local government
- (4) Multimedia permitting and compliance initiatives (e.g., the Model States program)
- (5) Facility planning, in the context of pollution prevention permitting and compliance
- (6) Pollution prevention-based compliance and enforcement initiatives
- (7) Research, development, and demonstration (RD&D) permitting—flexibility for pollution prevention.

The Focus Group will discuss potential recommendations to be included in its second report and recommendations.

The March meeting will be open to the public. People wishing to deliver comments at the meeting should identify themselves to the individuals identified below at least 24 hours before the meeting. There may not, however, be an opportunity to make oral comments at the meeting. People wishing to make comments prior to or subsequent to the meeting are assured that all written comments received will be reviewed by the Focus Group. Comments may be provided to and additional information may be obtained from David R. Berg or Morris Altschuler at EPA (A 101-F6), 401 M Street SW., Washington, DC 20460, by calling 202-260-9153, or by written request sent by fax (202-260-6882).

Dated: February 6, 1992.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 92-3951 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-42069; FRL-3945-3]

#### South Dakota; Approval of Interim Program for Certification of Applicators of Compound 1080 Livestock Protection Collars and Intent to Approve the Permanent Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** The Regional Administrator, EPA Region VIII, has granted the South Dakota Department of Agriculture interim authority to certify applicators of compound 1080 livestock protection collars. This interim program began on June 3, 1991 and ended on August 31, 1991. The South Dakota Department of Agriculture has submitted an amendment to the existing South Dakota pesticide applicator certification plan to provide for a permanent program to certify applicators of compound 1080 livestock protection collars. Notice is given of the intention of the Regional Administrator, Region VIII, to approve this amendment. Interested persons are invited to comment.

**DATES:** Written comments must be submitted on or before March 23, 1992.

**ADDRESSES:** Address comments identified by the docket control number OPP-42069 to: Ronald Schiller, Environmental Protection Agency, Region VIII, Toxic Substances Branch, 999 18th St., suite 500, Denver, CO 80202-2405.

**FOR FURTHER INFORMATION CONTACT:** Ronald Schiller (303) 293-1733.

**SUPPLEMENTARY INFORMATION:** In accordance with section 11(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, and 40 CFR part 171, Jay Swisher, Secretary, South Dakota Department of Agriculture has submitted to EPA an amendment to the South Dakota State Plan to permit certification of private and commercial applicators of the compound 1080 livestock protection collar.

#### I. Summary of Plan

The South Dakota Plan sets up a special certification category for both private and commercial applicators. Commercial and private applicators will be certified in the livestock protection collar category. Competency will be determined through pass/fail written examinations after completion of the approved training course. Additionally, private applicators must meet the currently existing private applicator general certification competency standards. The State estimates that there will be 45 private and commercial applicators requesting certification to use the collar.

The written examination which the State will use to determine competency was attached to the Plan, but will not be available for public review in order to protect the integrity of the examination. EPA has reviewed the examination and determined that it satisfactorily



measures the competency of the applicators.

Recertification must take place at least every 2 years. Recertification will be granted by retaking and passing the compound 1080 livestock protection collar written examination and maintaining the other required certification.

All private and commercial applicators will be required to complete a training course presented jointly by the South Dakota Department of Agriculture, South Dakota State University Cooperative Extension Service, South Dakota Department of Game, Fish and Parks, and USDA-APHIS. The training package has been reviewed by EPA and it has been determined that it satisfactorily fulfills the Agency's training requirements. The course will use a training package developed by Texas A&M University under a contract from EPA.

Compound 1080 livestock protection collars will only be available to applicators through the South Dakota Department of Game, Fish and Parks, Animal Damage Control Section.

Applicators who cannot read will not be certified. Reciprocity will only be granted to applicators holding a specific compound 1080 livestock protection collar certification from a program approved by EPA. Reciprocity will be further limited to those who own or lease land in South Dakota.

## II. Public Comments

Copies of the plan amendment are available for review at the following locations during normal business hours:

1. South Dakota Department of Agriculture, 445 East Capitol, Pierre, SD 57501, Telephone: (605) 773-3724.
2. EPA Region VIII, 999 18th St., suite 500, Denver, CO 80202, Telephone: (303) 293-1733.

Dated: February 4, 1992.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

[FR Doc. 92-3942 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100102; FRL-4046-2]

**DPRA Incorporated, ABT Associates, ICF Incorporated, Cadmus Group Inc., Sobotka Company; Transfer of Data**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements

imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). DPRA Incorporated and its subcontractors, ABT Associates, ICF Incorporated, Cadmus Group Inc., and Sobotka Company, hereinafter "DPRA Inc. and its subcontractors," have been awarded a contract to perform work for EPA's Office of Pesticide Programs, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to DPRA Inc. and its subcontractors consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(h)(2). This transfer will enable DPRA Inc. and its subcontractors to fulfill their obligations under the contract, and serves to notify affected persons.

**DATES:** DPRA Inc. and its subcontractors will be given access to this information no sooner than February 24, 1992.

**FOR FURTHER INFORMATION CONTACT:** By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

**SUPPLEMENTARY INFORMATION:** Under Contract No. 68-D1-0134, DPRA Inc. and its subcontractors will assist the Office of Pesticide Programs to develop regulatory impact analyses and benefits analyses in support of agency rulemaking and pesticide regulatory activities.

The Office of Pesticide Programs has determined that access by DPRA Inc. and its subcontractors to information on all pesticide chemicals is necessary for the performance of the contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with DPRA Inc. and its subcontractors prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor or subcontractors sign an agreement to protect the information from

unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, DPRA Inc. and its subcontractors are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor or its subcontractors until these requirements have been fully satisfied. Records of information provided to this contractor and its subcontractors will be maintained by the Project Officer for this contract in the EPA Office of Pesticide Programs. All information supplied to DPRA Inc. and its subcontractors by EPA for use in connection with this contract will be returned to EPA when DPRA Inc. and its subcontractors have completed their work.

Dated: February 5, 1992.

Douglas D. Camp,

Director, Office of Pesticide Programs.

[FR Doc. 92-3944 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-60027; FRL-4048-8]

## Intent to Suspend Certain Pesticide Registrations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of issuance of notices of intent to suspend.

**SUMMARY:** This notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notice(s) of Intent to Suspend pursuant to section 3(c)(2)(B) of FIFRA. The notice(s) were issued following issuance of Data Call-In Notice(s) by the Agency and the failure of registrant(s) subject to the Data Call-In Notice(s) to take appropriate steps to secure the data required to be submitted to the Agency. This notice includes the text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information. Table A of this notice further identifies the registrant(s) to whom the Notice(s) of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration number(s) and name(s) of the registered product(s) which are affected by the Notice(s) of Intent to Suspend. Moreover, Table B of this notice identifies the basis upon which the Notice(s) of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are



specified in the Notice(s) of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notice(s) of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

**FOR FURTHER INFORMATION CONTACT:**

Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

**SUPPLEMENTARY INFORMATION:**

**I. Text of a Notice of Intent to Suspend**

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Pesticides and Toxic Substances  
Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of  
Pesticide Product(s) Containing \_\_\_\_\_  
for Failure to Comply with  
the 3(c)(2)(B) Data Call-In Notice for  
Dated \_\_\_\_\_

Dear Sir/Madam:

This letter gives you notice that the pesticide product registration(s) listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registration(s) of your product(s) is section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the 3(c)(2)(B) Data Call-In Notice. The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected product(s) and the requirement(s) which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report -  
Product List

Attachment II Suspension Report -  
Requirement List

Attachment III Suspension Report -  
Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your product(s).

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registration(s) for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request

must be received by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 3(c)(2)(B) Data Call-In Notice. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have



satisfied the requirement(s) that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer

to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registration(s) of your product(s) listed in Attachment I are currently suspended as a result of failure to comply with another section 3(c)(2)(B) Data Call-In Notice or Section 4 Data Requirement Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered product(s) and that you may be held liable for violations committed by your distributors.

If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject 3(c)(2)(B) Data Call-In Notice, please contact Stephen L. Brozena at (703) 308-8267.

Sincerely yours,

Director, Office of Compliance  
Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

**II. Registrant(s) Receiving and Affected by Notice(s) of Intent to Suspend; Date of Issuance; Active Ingredient and Product(s) Affected**

A letter of notification has been sent for the following product(s):

TABLE A.—PRODUCT LIST

Registrant Affected	EPA Registration Number	Active Ingredient	Name of Product	Date Issued
Drexel Chemical Company	01971300158	Linuron	Linuron Flake Technical	1/28/92

### III. Basis for Issuance of Notice of Intent; Requirement List

The following registrant(s) failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

Active Ingredient	Registrant Affected	Requirement Name	Guideline Reference No.	Original Due-Date
Linuron	Drexel Chemical Company	Preliminary Analysis of Product Samples	62-1	7/1/91
		Certification of Ingredient Limits	62-2	7/1/91
		Dissociation Constant	63-10	7/1/91

### IV. Attachment III Suspension Report--Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:  
Linuron

In June 1984, EPA issued a Registration Standard which included a Data Call-In Notice pursuant to the authority of FIFRA section 3(c)(2)(B) which required registrants of products containing linuron used as an active

ingredient to develop and submit data. These data were determined to be necessary to maintain the continued registration of affected products. Failure to comply with the data requirements of a Registration Standard is a basis for suspension under 3(c)(2)(B) of FIFRA.

In a subsequent letter dated November 15, 1990, EPA notified Drexel Chemical Company that certain product data gaps remained for certain product

chemistry data requirements, which had been imposed by the 1984 Registration Standard/Data Call-In Notice. Those data submissions were required to be received by the Agency within 60 days of the registrant's receipt of the November 15, 1990 letter. The Agency received a response from you as a linuron registrant requesting a time extension until July 1, 1991, to undertake the required testing to meet the data



requirements listed in Attachment II. The original deadline has passed as has also the due date requested in your time extension request and to date the Agency has not received data to satisfy these data requirements. Because you have failed to provide appropriate or adequate data submissions within the time provided for the data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

#### V. Conclusions

EPA has issued Notice(s) of Intent to Suspend on the dates indicated. Any further information regarding the Notice(s) may be obtained from the contact person noted above.

Dated: February 6, 1992.

Michael M. Stahl,  
Director, Office of Compliance Monitoring.  
[FR Doc. 92-3945 Filed 2-19-92; 8:45 am]  
BILLING CODE 5560-50-F

[OPP-240097; FRL-4045-1]

#### State Registration of Pesticides

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 20 States and Puerto Rico. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the Federal Register. This document also contains notice of two disapproved section 24(c) registrations.

**DATES:** The last entry for each item is the date the State registration of that product became effective.

**FOR FURTHER INFORMATION CONTACT:** Edith Minor, Registration Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-5978.

**SUPPLEMENTARY INFORMATION:** This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the

appropriate State for action. Most of the registrations listed below were received by the EPA in October through December of 1991. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

#### Arizona

EPA SLN No. AZ 91 0014. AgChem Division/Atochem North America. Registration is for Maneb 80 + Zinc F4 to be used on head lettuce and leaf lettuce to control downy mildew. November 13, 1991.

EPA SLN No. AZ 91 0015. Sandoz Crop Protection Corp. Registration is for Norflurazon to be used on asparagus to control nutsedge, broadleaves, and grasses. November 26, 1991.

EPA SLN No. AZ 91 0016. Sunland Chemical Co., Inc. Registration is for Benlate Fungicide to be used on onions to control fusarium and botrytis. November 19, 1991.

#### California

EPA SLN No. CA 91 0010. E. I. Du Pont DeNemours & Co., Inc. Registration is for Lannate to be used on greenhouse-grown cucumbers and melons to control aphids. October 31, 1991.

EPA SLN No. CA 91 0023. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used in peach seed beds to control broadleaf weeds and grasses. November 14, 1991.

EPA SLN No. CA 91 0025. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on clover grown for seed to control weeds. November 13, 1991.

EPA SLN No. CA 91 0029. Mobay Corp. Registration is for Metasystox-R Spray to be used on broccoli raab to control aphids. October 1, 1991.

EPA SLN No. CA 91 0030. Valent U.S.A. Corp. Registration is for Petroleum Oil to be used in pistachio orchards to control lecanium soft scale. October 1, 1991.

EPA SLN No. CA 91 0031. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on strawberry beds to control grasses and weeds. November 13, 1991.

#### Connecticut

EPA SLN No. CT 91 0004. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on squash, eggplant, cucumbers, and melons to control weeds. November 5, 1991.

EPA SLN No. CT 91 0005. USDA/APHIS Science and Technology. Registration is for Compound DRC-1339 90% to be used on rooftops and in bait trays to control pigeons and starlings. December 12, 1991.

#### Florida

EPA SLN No. FL 91 0015. FMC Corp. Registration is for Bifenthrin to be used on ornamental trees, shrubs, plants, flowers, conifers, bushes, Christmas trees and nonbearing fruit and nut trees to control imported fire ants. November 5, 1991.

EPA SLN No. FL 91 0016. The Land, Epcot Center. Registration is for Sulfur to be used on food crops in greenhouses to control mites, powdery mildew, and rust. November 5, 1991.

EPA SLN No. FL 91 0017. Lee County Mosquito Control District. Registration is for Resmethrin to be used in parks, woodland, residential areas, and municipalities to control flies, midges, and mosquitos. November 5, 1991.

EPA SLN No. FL 91 0018. ISK Biotech Corp. Registration is for chlorothalonil to be used on passion fruit to control alternaria fruit and leaf spot. December 2, 1991.

#### Georgia

EPA SLN No. GA 91 0001. Platte Chemical Co. Registration is for Ethyl Parathion to be used on canola to control weevils. November 6, 1991.

#### Hawaii

EPA SLN No. HI 91 0009. Ciba-Geigy Corp. Registration is for Propiconazole to be used on bananas to control black sigatoka. November 14, 1991.

EPA SLN No. HI 91 0010. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on bell pepper plants to control weeds. November 7, 1991.

EPA SLN No. HI 91 0013. D. Paul Julstrom DEKALB Plant Genetics. Registration is for Poast Herbicide to be used on seed corn to control grasses and weeds. November 20, 1991.

#### Idaho

EPA SLN No. ID 91 0011. Platte Chemical Co. Registration is for Ethyl Parathion to be used on canola and rapeseed to control weevils. October 31, 1991.



**Illinois**

EPA SLN No. IL 92 0001. FMC Corp. Registration is for Clomazone to be used on soybeans to control weeds and grasses. December 9, 1991.

**Louisiana**

EPA SLN No. LA 91 0018. FMC Corp. Registration is for the use of Carbofuran to be used on sorghum and corn to control aphids and chinch bugs. October 9, 1991.

EPA SLN No. LA 91 0019. FMC Corp. Registration is for Carbofuran to be used on rice to control weevils and mosquitoes. October 9, 1991.

EPA SLN No. LA 91 0020. FMC Corp. Registration is for Carbofuran to be used on field corn to control southwestern corn/sugarcane borer. October 10, 1991.

EPA SLN No. LA 91 0021. FMC Corp. Registration is for Permethrin to be used on soybeans to control insects. October 9, 1991.

EPA SLN No. LA 91 0023. FMC Corp. Registration is for Permethrin-methyl Parathion to be used on soybeans to control insects. October 9, 1991.

EPA SLN No. LA 91 0024. Red Panther Chemical Co. Registration is for Imidan 5 Dust to be used on sweet potatoes to control sweet potato weevils. October 30, 1991.

**Maine**

EPA SLN No. ME 91 0008. Rohm & Haas Co. Registration is for Dicofol to be used on Christmas trees to control spider mites. November 21, 1991.

**Michigan**

EPA SLN No. MI 91 0008. Courtaulds Coatings, Inc. Registration is for Copper Thiocyanate to be used on aluminum, fiberglass, and wood boats to control algae, barnacles, and corrosion. October 24, 1991.

**Nevada**

EPA SLN No. NV 91 0002. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control broadleaf weeds and grasses. October 10, 1991.

EPA SLN No. NV 91 0003. ICI Americas, Inc. Registration is for Gramoxone to be used on seeded onions to control annual weeds and grasses. October 3, 1991.

**North Carolina**

EPA SLN No. NC 91 0017. Platte Chemical Co. Registration is for Sclerban 75WDG to be used on sweet potatoes to control black rot. November 21, 1991.

**North Dakota**

EPA SLN No. ND 91 0001. E. I. Du Pont De Nemours & Co., Inc. Registration is for Nicosulfuron to be used on field corn to control annual and perennial grasses. November 8, 1991.

**Oregon**

EPA SLN No. OR 91 0005. Uniroyal Chemical Co., Inc. Registration is for Trifluralin to be used on ornamental trees to control cylindrocladium and petal rot. November 26, 1991.

EPA SLN No. OR 91 0021. Atochem North America. Registration is for Ethoxquin to be used on pears to delay ripening. October 4, 1991.

EPA SLN No. OR 91 0023. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on wheat to control cheatgrass. October 9, 1991.

EPA SLN No. OR 91 0024. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on wheat/fallow to control wheat rotweeds. October 9, 1991.

EPA SLN No. OR 91 0025. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control weeds. October 9, 1991.

EPA SLN No. OR 91 0026. Rohm & Haas Co. Registration is for Oxyfluorfen to be used on onions to control broadleaf and grass weeds. October 15, 1991.

EPA SLN No. OR 91 0027. Mobay Corp. Registration is for Disulfoton to be used on poplars to control cottonwood leaf beetles and aphids. October 15, 1991.

EPA SLN No. OR 91 0028. AMVAC Chemical Corp. Registration is for Fruitone N to be used on bartlett pear trees as a growth regulator. November 15, 1991.

EPA SLN No. OR 91 0029. Platte Chemical Co. Registration is for Dimethoate to be used on cherries to control cherry fruitfly. November 22, 1991.

EPA SLN No. OR 91 0030. AMVAC Chemical Corp. Registration is for Potassium Salt to be used on apples and pears as a growth regulator. December 3, 1991.

EPA SLN No. OR 91 0031. AMVAC Chemical Corp. Registration is for Potassium Salt to be used on apples and pears as a growth regulator. December 3, 1991.

**Pennsylvania**

EPA SLN No. PA 91 0006. Ciba-Geigy Corp. Registration is for Metalaxyl and Mancozeb to be used on wheat, corn, barley, and oats to control blight. October 1, 1991.

**Puerto Rico**

EPA SLN No. PR 91 0005. Mobay Corp. Registration is for Nemacur 3 to be used on pineapple to control nematodes. October 10, 1991.

EPA SLN No. PR 91 0006. Mobay Corp. Registration is for Nemacur to be used on bananas and plantains to control nematodes and banana root borer. October 22, 1991.

**Tennessee**

EPA SLN No. TN 91 0003. FMC Corp. Registration is for Permethrin to be used on collards and turnips to control insects and worms. December 16, 1991.

**Washington**

EPA SLN No. WA 91 0042. Mobay Corp. Registration is for Morestan 25% Powder Red to be used on raspberries to control spider mites and eggs. October 1, 1991.

EPA SLN No. WA 91 0043. Rohm & Haas Co. Registration is for Pronamide to be used on Christmas trees to control grasses and weeds. October 1, 1991.

EPA SLN No. WA 91 0044. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on winter wheat to control weeds. November 14, 1991.

EPA SLN No. WA 91 0045. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control bluegrass and chickweed. November 14, 1991.

EPA SLN No. WA 91 0046. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control herbit and chickweed. November 14, 1991.

EPA SLN No. WA 91 0047. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on alfalfa to control bluegrass and herbit. November 14, 1991.

EPA SLN No. WA 91 0048. ICI Americas, Inc. Registration is for Paraquat Dichloride to be used on mint to control weeds and grasses. November 14, 1991.

EPA SLN No. WA 91 0049. ICI Americas, Inc. Registration is for paraquat dichloride to be used on tulips, narcissus, and iris bulbs to control weeds and grasses. November 14, 1991.

EPA SLN No. WA 91 0050. AMVAC Chemical Corp. Registration is for potassium salt to be used on apples and pears as a growth regulator. December 16, 1991.

**West Virginia**

EPA SLN No. WV 91 0002. USDA/APHIS Science & Technology. Registration is for Compound DRC-1339 98% Concentrate to be used in staging



areas, structural roost and dairy operations to control pigeons and blackbirds. November 15, 1991.

#### Disapprovals

The following State registrations of pesticides under section 24(c) of FIFRA were disapproved by the Administrator:

#### New Mexico

EPA SLN No. NM 91 0002. Griffin Corp. Registration is for mancozeb to be used on cotton to control rust. Disapproved December 4, 1991.

EPA SLN No. NM 91 0003. Griffin Corp. Registration is for maneb to be used on cotton to control rust. Disapproved December 4, 1991.

**Authority:** Section 24, as amended, 92 Stat. 835 (7 U.S.C. 136).

**Dated:** February 3, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92-3943 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4105-8]

#### Superfund Program; Settlement Policy on the Performance of Risk Assessments at Superfund Sites

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of evaluation, request for comment.

**SUMMARY:** In June 1990, EPA announced a new settlement policy for Superfund sites under which the Agency would not enter into consent orders or decrees under which the potentially responsible parties (PRPs) would perform the risk assessment component of the Remedial Investigation/Feasibility Study (RI/FS). EPA has decided to undertake an evaluation of that policy, and of the Agency's experience to date in implementing that policy, in order to ensure that the policy best helps to effectuate prompt and protective cleanups under Superfund. As part of its evaluation, EPA invites public comment on the merits of the existing settlement policy, the merits of the former settlement policy (under which PRPs were generally offered the opportunity to perform the site risk assessment under EPA oversight), and the suggested elements for inclusion in the evaluation.

**DATES:** Any person wishing to submit comments on this notice must do so on or before March 23, 1992.

**ADDRESSES:** Written comments on the evaluation should be submitted in duplicate to Matthew Charsky, U.S.

Environmental Protection Agency, Office of Waste Programs Enforcement, Guidance and Oversight Branch (OS-510), 401 M Street, SW., Washington, DC 20460. For ease of public review, the comments will be available at the Superfund public docket, located at EPA Headquarters at the above address in room M2427, and will be available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Matthew Charsky at the above address, or at (202) 260-9805.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Statutory and Regulatory Provisions

Pursuant to section 104(a) of CERCLA, the President (or his delegate, EPA) is authorized to take response actions whenever (A) any hazardous substance is released or there is a substantial threat of such a release into the environment, or (B) there is a release or substantial threat of release into the environment of any pollutant or contaminant which may present an imminent and substantial danger to the public health or welfare. Included within the types of response actions which EPA is authorized to take are investigations and studies under CERCLA section 104(b). See CERCLA section 101(23). Where the Agency is evaluating the possibility of taking a remedial action under Superfund, a remedial investigation/feasibility study (RI/FS) is generally undertaken. As explained in the National Contingency Plan (NCP) regulations, developing and conducting an RI/FS generally involves a number of activities, including: Project scoping, data collection, risk assessment, treatability studies, and analysis of alternatives. 40 CFR 300.430(a)(2).

EPA may perform RI/FSs and other response actions using monies provided in the Superfund (the "Fund") (with the possibility of seeking cost recovery actions later from the PRPs), or the Agency has the discretion to allow a responsible party to perform such action under an enforceable order.

When the President determines that such action will be done properly and promptly by the owner or operator of the facility or vessel or by any other responsible party, the President may allow such person to carry out the action, conduct the remedial investigation, or conduct the feasibility study in accordance with section 122. No remedial investigation/feasibility study (RI/FS) shall be authorized except on a determination by the President that the party is qualified to conduct the RI/FS and only if the President contracts with or arranges for a qualified person to assist the President in overseeing

and reviewing the conduct of such RI/FS and if the responsible party agrees to reimburse the Fund for any cost incurred by the President under, or in connection with, the oversight contract or arrangement.

CERCLA section 104(a)(1) (emphasis added). The special conditions on when a PRP could be allowed to perform an RI/FS (e.g., assuring payment of oversight costs) reflect the special nature of the evaluation stage in the CERCLA process, and the importance of properly defining the risks and hazards at a site.

The mechanism for allowing PRPs to conduct RI/FSs is a settlement agreement, as set out in CERCLA section 122:

(a) Authority to Enter into Agreements. The President in his discretion, may enter into an agreement with any person (including the owner or operator of the facility from which a release or substantial threat of release emanates, or any other potentially responsible person), to perform any response action (including any action described in section 104(b)) if the President determines that such action will be done properly by such person. CERCLA section 122(a) (emphasis added).

##### B. Legislative History

In the 1980 version of CERCLA, section 104(a)(1) authorized the President to take any response actions necessary to protect the public health or welfare or the environment, "unless the President determines that such removal and remedial action will be done properly by the owner or operator of the vessel or facility from which the release or threat of release emanates, or by any other responsible party." Members of the PRP community had argued that this provision meant that EPA was required to allow PRPs to perform needed action where they could do so properly and promptly. This faulty interpretation prompted Congress to amend that section in the Superfund Amendments and Reauthorization Act of 1986 (SARA) to make clear that the decision of whether to have EPA perform the action itself, or to work out an order or settlement agreement under which the PRPs would perform the action, was a matter wholly within the discretion of the Agency:

This is intended to clarify the authority of the Administrator to permit response actions to be carried out by [PRPs]. The intent is to encourage response actions by owners or operators where the Administrator of EPA determines that they can perform the actions properly and promptly. The amended language does not require EPA to permit



response actions by responsible parties. It is designed to clarify EPA's discretion by deleting the requirement that EPA undertake a response action unless a determination is made that it can be done by others. Deletion of current CERCLA's 'unless' clause is intended to clarify current law and assure that responsible parties do not attempt to enjoin fund-financed cleanup on the ground that they should be entitled to do the work, regardless of EPA's desires on the matter.

H.R. Rep. No. 253, 99th Cong., 1st Sess., pt. 5, at 8 (1985). Similarly, the Senate Environment and Public Works Committee explained that under the 1980 CERCLA,

this amendment clarifies that the Federal government may authorize [a PRP] to perform the response action if the President determines that such action will be done properly. This determination need not be made in every case. The President may undertake a response action without making such a determination. The Federal government is not precluded from conducting a response action, merely because responsible parties have indicated a willingness to take some form of response action.

S. Rep. No. 11, 99th Cong., 1st Sess. 16 (1985). Thus, Congress made clear in SARA that the decision of when PRPs should be allowed to conduct an RI/FS or other response action rests within the discretion of EPA.

#### C. History of the Settlement Policy on Risk Assessments

The issue of whether PRPs should be entrusted with the responsibility for evaluating the need for response action at sites where they may be financially liable for cleanup costs, has been a central issue under Superfund since the law's passage in 1980. The question turns on several issues: The PRPs' technical capability, the PRPs' possible bias, the Agency's ability to provide effective and efficient oversight, and the need to assure public confidence in a national cleanup program.

Prior to June 1990, EPA's policy was generally to negotiate with PRPs for the performance of the entire RI/FS, including the risk assessment component, and to rely on vigilant oversight as the means to ensure that remedies remain protective, and that the PRPs' interest in low cost remedies did not, in any way, compromise protection of human health and the environment.<sup>1</sup>

It was the view of the Agency at the time that it might be more efficient to allow PRPs to spend their monies to study sites rather than draw on the limited resources of the Fund.

This policy of allowing PRPs to conduct the risk assessment component of the RI/FS was not without its critics. Some parties continued to express concern regarding the appropriate role of PRPs in defining site risks during the RI/FS stage of the process.

In May of 1989, the "Lautenberg-Durenberger Report on Superfund Implementation: Cleaning Up the Nation's Cleanup Program" was issued by the Senate Subcommittee on Superfund, Ocean and Water Protection. It found that remedies selected at sites proceeding under an enforcement lead (i.e., where the PRPs were allowed to perform the work) were "lagging significantly behind cleanup decisions that are part of the publicly funded side of the program in achieving the legally mandated goal of permanent treatment," and "use treatment remedies (those that destroy or alter contamination) less, and containment remedies more." (*Id.*, at p. 204-05.) The report recommended "isolating and explaining those factors that account for the difference." (*Id.*, at 207.)

In "Coming Clean—Superfund Problems Can be Solved" (Office of Technology Assessment, U.S. Congress, Oct. 1989), a recommendation was made "that PRPs' participation in response actions be limited to the implementation of remedies, citing concerns that [PRPs] often seek the least expensive, rather than best clean-up techniques \* \* \*." ("Coming Clean", at p. 52.) Similarly, in "Tracking Superfund: Where the Program Stands," Environmental Defense Fund, Hazardous Waste Treatment Council, et al. (Feb. 1990), a finding was made that "risk assessments conducted by PRPs sometimes reach unscientific conclusions about the hazards posed by sites \* \* \*." (Record Doc. 11, at p. 56-57).

The Agency responded to early concerns on this issue in June of 1989, where EPA Administrator William K. Reilly issued an overall report on the Superfund program. In a section on the "Oversight of Private Party RI/FS," the Administrator made the following finding:

Some commenters have criticized the Agency's policy of allowing private parties to conduct RI/FSs, arguing that this practice results in cheaper, less protective remedies, and that citizen groups have little opportunity for effective involvement in development the RI/FSs. These critics have suggested that EPA return to earlier policies of discouraging

or prohibiting private party RI/FS. There was broad consensus among EPA managers and staff that the Agency needs to put more effort and resources into oversight of RI/FS performed by PRPs.

"A Management Review of the Superfund Program" (EPA Administrator William K. Reilly, June 1989), at p. 2-19. EPA also began a study of cleanups performed by EPA as compared to those performed by the PRPs.

In June 1990, a report was issued comparing Fund-lead cleanups with PRP-lead cleanups (see "Comparative Analysis of Remedies Selected in the Superfund Program During FY87, FY88, and FY89," OSWER Directive 9835.13 (June 20, 1990)). It revealed that overall, the end result of PRP-lead and EPA-lead cleanups were comparable, and both were protective:

At both Fund-lead and Enforcement-lead sites the baseline risk was sufficient to require remedial action. There were some differences in how risks were developed \* \* \*. No inappropriate influences by PRPs were detected \* \* \*. Overall, \* \* \* no significant difference \* \* \* in terms of whether the remedies selection process and the remedies selected are consistent with expectations set forth in the [NCP].

However, the Agency found that PRP studies resulted in good remedy selections only after significant effort was spent on oversight. For instance, the report found that draft risk assessments prepared by PRPs tended to underestimate the risk at sites:

the baseline risk assessments performed by EPA often used very conservative exposure assumptions and low toxicity values. Most of the PRP risk assessments used site data and exposure assumptions that were less conservative. (Comparative Analysis, at p. 3-8).

PRPs do tend to draft risk assessments to show low risks at sites. (Comparative Analysis, at p. 3-14.)

In order to detect deficiencies (such as underestimates of risk) in draft risk assessments prepared by PRPs, the Agency was required to expend considerable resources on oversight:

These risk assessments tend to need extensive modifications by the Regions, or variations occur. (Comparative Analysis, at p. 3-14.)

#### D. June 21, 1990 Settlement Policy for Risk Assessments

On June 21, 1990, in testimony before the Senate Subcommittee on Superfund, Ocean, and Water Protection of the Senate Committee on Environment and Public Works, EPA announced a new settlement policy for Superfund sites under which the Agency would not enter

<sup>1</sup> Note that even under this pre-June 1990 policy, some Regions declined to enter into consent orders or decrees under which the PRPs would perform the risk assessment function.



into consent orders or decrees under which the PRPs would perform the risk assessment component of the RI/FS; the Agency would, however, continue to discuss with PRPs the possibility of performing the other portions of the RI/FS. The decision to change the Agency's settlement policy was based on several factors, such as:

—“The [Comparative Analysis] study revealed that PRP risk assessments tended to need extensive modifications by the Regions . . . [Thus,] in the future EPA alone . . . would develop the risk assessment.” (OSWER Directive 9835.15, 8/28/90.)

—“Generally, EPA's efforts to correct these deficiencies [in PRP risk assessments] take longer and are more labor intensive than if EPA had developed the risk assessment.” (Diamond Memorandum, “Recommendations for Improvement of PRP-Lead RI/FS,” 8/22/90.)

—“[S]ome PRP-drafted risk assessments tend to underestimate the risk posed by a site, in many cases requiring a redraft by the Region. Since there is extensive judgment in risk assessment development and since risk assessments serve as the basis for taking action and are a determinant in choosing treatment instead of containment, and potentially affect what cleanup levels are established, EPA will assume the development of all risk assessments in the future.” (Report, Comparative Analysis of Remedies, 6/20/90.)<sup>2</sup>

—“Although the [Comparative Analysis] study did not demonstrate great differences in the remedies selected at Fund-lead and Enforcement-lead sites, to further strengthen the program, EPA intends to implement the following: 1. EPA . . . will develop all risk assessments in the future.” (Report, Comparative Analysis of Remedies, 6/20/90.)

—PRP-lead RI/FSs were taking longer than EPA-lead ones, and often had to be re-done several times. For example, the Superfund Quarterly Management Reports (data as of June 30, 1990), p. IV-3, showed that significantly greater amounts of time had been required for PRP RI/FSs. At Fund-lead sites, the average RI/FS was completed in 10.8 quarters while at PRP-lead sites, the average RI/FS was completed in 12.9 quarters. In addition, the OERR Monthly Management Reports (data as of September 30, 1988), showed that for post-SARA, 4th quarter FY 88 RI/FSs, the average PRP-lead RI/FS took 9.5 quarters to complete, while the average Fund-lead RI/FS took 8.2 quarters to complete.

—Delays were also inherent in the need for EPA to take over many PRP RI/FSs.<sup>3</sup> For

instance, in the Superfund Quarterly Management Reports (data as of June 30, 1990) on duration of Fund and PRP-lead sites, the data show 53 RI/FS takeovers versus 68 PRP RI/FS completions for the 3rd quarter of FY 1990 (p. IV-3).

The Agency concluded that by having EPA perform all baseline risk assessments, the delay caused by the sometimes lengthy process of review and revision of PRP risk assessments will be eliminated. RODs will be signed sooner and remedial activity can begin earlier. In addition, the Agency believed that the new policy would result in an increase in the consistency of risk assessments, and would help bolster public confidence in the quality and consistency of the cleanup program.

EPA did not view this change in its settlement policy as having a major substantive effect on PRPs. There is not likely to be—and there should not be—different substantive effects from a policy under which EPA oversees all PRP risk assessment work products and requires revisions to conform to Agency guidance (see OSWER Directive 9835.8, June 2, 1989, on deliverables to EPA), as compared to a policy under which EPA performs the risk assessment in the first instance. Moreover, the policy made clear that PRPs still can negotiate to perform (under EPA review) the other components of the RI/FS.

However, the June 21, 1990 announcement did result in vocal objections from several industry groups, and in response, the Agency indicated its willingness to review the policy after approximately one year, and to evaluate the pros and cons in light of actual results.<sup>4</sup> This notice announces that evaluation.

## II. The Evaluation

By performing a mid-stream evaluation of its settlement policy with respect to RI/FSs (and the risk assessment component, in particular), EPA seeks to ensure that it has developed the best possible policy for the Superfund program. The Agency is not predisposed to any final outcome, but plans to objectively evaluate the available data, consider the views of the interested and affected public, and make

a decision that is in the best interests of the program and the public. The Agency concluded in the summer of 1990 that the better course would be to have the Agency itself perform this sensitive element of the remedy evaluation process, in order to further consistency in risk assessments, speed up the RI/FS process overall, and assure public confidence in the process. If at the conclusion of the evaluation process, the Agency believes that another policy approach can better achieve these goals, then the Agency will revise its current policy. If there are significant coordination or other problems in having different parties conduct parts of the RI/FS, EPA may decide that only one party should conduct the risk assessment and the rest of the RI/FS. This may lead EPA to revert to the old policy, or indeed, to decide that EPA should perform the entire RI/FS including the risk assessment.

The evaluation will consist of a review of cases where EPA has performed the baseline risk assessment in the context of a PRP-lead RI/FS project. It will include, at a minimum, an analysis of (1) coordination issue associated with EPA's performance of the risk assessment and the PRPs' RI/FS work; (2) timing issues in order to determine, for example, if the policy of having EPA perform risk assessments in the context of PRP-lead RI/FSs has reduced or increased the time required to complete the RI/FS;<sup>5</sup> and (3) whether the present policy is having an effect on the Agency's ability to achieve settlements. The data base for the evaluation will include EPA risk assessments (at PRP-lead sites) that were carried out under the present policy, and those carried out by EPA under the former policy where EPA Regions chose to perform the risk assessment even though PRPs performed the rest of the RI/FS. The evaluation will also include a review of public comments on the benefits and drawbacks of allowing PRPs to conduct the risk assessment component of the RI/FS.

EPA will complete the evaluation approximately one year from the date of this Federal Register notice in order to allow EPA sufficient time to include a number of risk assessments conducted under the new policy. Shortly thereafter, EPA will publish in the Federal Register a notice of availability of the completed

<sup>2</sup> See also Model Statement of Work for an RI/FS Conducted by a PRP, OSWER Directive 9835.8, June 2, 1989, at p. i: “Because the baseline risk assessment serves as a primary means for supporting enforcement decisions at most sites, the Regions may write a site-specific SOW providing for EPA preparation of the risk assessment or the exposure assumptions.”

<sup>3</sup> According to EPA's “Interim Guidance on PRP Participation in RI/FSs,” OSWER Directive 9835.1a (revised February 7, 1989), at p. A-11, deficiencies in PRP risk assessments are corrected through the use

of one or more of the following activities: “(1) Identification of the deficiency; (2) demand for corrective measures; (3) use of dispute resolution mechanisms, where appropriate; (4) imposition of penalties; and if necessary, (5) PRP RI/FS termination and project takeover or judicial enforcement.”

<sup>4</sup> Several industry groups also brought a challenge to the procedures by which the new settlement policy was issued. *Chemical Manufacturers Association, et al., v. U.S. EPA*, No. 90-1460 (D.C. Cir.). This evaluation, with opportunities for public comment, is expected to resolve that litigation as well.

<sup>5</sup> As noted in the recent “Superfund 30-Day Task Force Report: Accelerating Superfund Cleanups and Evaluating Risk at Superfund Sites” (Office of Solid Waste and Emergency Response, July 19, 1991), the removal of obstacles to expeditious cleanups is a high priority of the Superfund program.



evaluation, along with an opportunity for public comment on the evaluation. The Agency is committed to issuing a final decision on whether to maintain or revise the current RI/FS settlement policy within four months after the close of this second public comment period (i.e., the comment period on the evaluation report).

The present RI/FS settlement policy will remain in effect during the pendency of this evaluation process, or until further notice.

### III. Request for Public Comment

Some numbers of the public have argued that it is inefficient and unfair for EPA to perform a portion of the RI/FS while PRPs perform other aspects of it, given that PRPs may be allowed, under section 104 of CERCLA, to perform all RI/FS activities. They suggest that data may be lost during transfers of information between the Agency and the PRP contractors, and that increased inefficiencies and delays will result. They also argue that EPA risk assessments are too conservative, and will result in unrealistic and wastefully expensive cleanups with little real reductions in risk.<sup>6</sup>

Other sectors of the public believe that the assessment of risk is a critically sensitive element of the remedy selection process, and that EPA should always retain that function. In effect, they argue that public confidence cannot be assured where the PRPs assess the hazards at a site. In fact, some persons argue that the entire RI/FS process is very sensitive and should be performed only by EPA.

EPA invites members of the public to submit their views on whether or not EPA should enter into consent orders and decrees under which PRPs are allowed to perform the risk assessment component of the RI/FS, and why. Comments may also be submitted on the merits of the present settlement policy as compared to the former policy, on which approach has been more effective in securing prompt and protective cleanups, and whether a different approach from either of these might be best.

<sup>6</sup> As indicated above, to the extent that EPA is more conservative than the PRPs, the Agency will be so in oversight to the same degree as when the Agency performs the risk assessment in the first instance. As noted in the Comparative Analysis Report, acceptable remedial decisions resulted both from PRP-conducted risk assessments (after EPA oversight) and EPA-conducted risk assessments. (Note that the NCP directs EPA to use exposure assumptions that result in an overall exposure estimate that is "conservative but within a realistic range of exposure." 55 FR 8710, col. 2 (March 8, 1990).)

Finally, the Agency would be interested in the public's suggestions as to other issues which EPA should address in its evaluation.

Dated: February 10, 1992.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 92-3949 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M

[OPPTS-59932; FRL 4050-1]

### Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

**DATES:** Close of review periods:

Y 92-87, February 11, 1992.

Y 92-88, 92-89, 92-90, 92-91, 92-92, 92-93, 92-94, 92-95, February 17, 1992.

#### FOR FURTHER INFORMATION CONTACT:

David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office, NE-G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 92-87

Manufacturer, Confidential.

**Chemical.** (G) Vinyl acrylic emulsion.  
**Use/Production.** (G) Open, nondispersive use. Prod. range: Confidential.

Y 92-88

**Manufacturer.** Essex Speciality Products.

**Chemical.** (G) Hydroxyl functional polycarbomoyl (polyalkylene oxide) oligomer.

**Use/Production.** (S) Polymer used in sealant manufacture. Prod. range: Confidential.

Y 92-89

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-90

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-91

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-92

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-93

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Y 92-94

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.



## Y 92-95

**Manufacturer.** The P. D. George Company.

**Chemical.** (S) Glycerine; polyethylene terephthalate scrap.

**Use/Production.** (S) Intermediate in urethane wire enamels. Prod. range: 90,909 kg/yr.

Dated: February 11, 1992.

**Steven Newburg-Rinn,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 92-3946 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-51787; FRL 4050-2]

### Certain Chemicals; Premanufacture Notices

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice announces receipt of 6 such PMNs and provides a summary of each.

**DATES:** Close of review periods:

P 92-465, 92-466, 92-467, April 27, 1992.

P 92-468, 92-470, April 28, 1992.

P 92-471, April 29, 1992.

Written comments by:

P 92-465, 92-466, 92-467, March 28, 1992.

P 92-468, 92-470, March 29, 1992.

P 92-471, March 30, 1992.

**ADDRESSES:** Written comments, identified by the document control number "OPPTS-51787" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E-545, 401 M St., SW., Washington, DC 20460 (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office NE 09G004 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

## P 92-465

**Importer.** Confidential.

**Chemical.** (G) Diphenylsulfone-di-ether.

**Use/Import.** (G) Viscosity controller in fiber production. Import range: Confidential.

**Toxicity Data.** Mutagenicity: negative.

## P 92-466

**Importer.** Confidential.

**Chemical.** (G) Polyacrylate.

**Use/Import.** (G) Paint additive. Import range: Confidential.

## P 92-467

**Importer.** Ciba-Geigy Corporation.

**Chemical.** (S) Aluminium, hydroxy[29H,31H-phthalocyanato(2-)-N29,N20, N32, N32]-, chloro sulfo derivs., sodium salts.

**Use/Import.** (S) Photo bleaching and blueing agent for powder detergents. Import range: Confidential.

**Toxicity Data.** Acute oral toxicity: LD50 5.581 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: negligible species (rabbit). Skin sensitization: negative species (guinea pig). Phototoxicity: negative species (guinea pig). Photoallergenicity: negative species (guinea pig).

## P 92-468

**Manufacturer.** Siltech Inc.

**Chemical.** (G) Silicone phosphate.

**Use/Import.** (G) Open, nondispersive. Import range: Confidential.

**Toxicity Data.** Acute oral toxicity: LD50 5 g/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: none species (rabbit).

## P 92-470

**Importer.** Confidential.

**Chemical.** (G) Alkyls resin.

**Use/Import.** (G) Open, nondispersive. Import range: Confidential.

## P 92-471

**Manufacturer.** Shell Oil Company.

**Chemical.** (G) Epoxy resin.

**Use/Production.** (S) Other industrial uses. Prod. range: Confidential.

**Toxicity Data.** Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: none species (rabbit). Skin irritation: mild species (rabbit). Skin

sensitization: negative species (guinea pig).

Dated: February 11, 1992.

**Steven Newburg-Rinn,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 92-3947 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F

### FEDERAL COMMUNICATIONS COMMISSION

#### Public Information Collection Requirements Submitted to Office of Management and Budget for Review

February 7, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

**OMB Number:** 3060-0395.

**Title:** Automated Reporting and Management Information Systems (ARMIS) §§ 43.21 and 43.22.

**Report Number:** FCC Reports 43-01 through 43-05.

**Action:** Revised collection.

**Respondents:** Businesses or other for-profit.

**Frequency of Response:** Recordkeeping requirement, quarterly and annually.

**Estimated Annual Burden:** 998 responses, 374.5 hours average burden per response, 373,850 hours total annual burden; 50 recordkeepers, 2 hours average burden per recordkeeper, 100 hours total recordkeeping requirements.

**Needs and Uses:** This submission is made to solicit OMB review and approval of the attached FCC Report 43-03 as modified. FCC Report 43-02 is one of the several reporting requirements comprising the ARMIS approved by OMB under OMB control number 3060-0395. The FCC Report 43-02 contains companywide data for each account specified in the Uniform



System of Accounts (USOA). The Common Carrier Bureau, under delegated authority, has modified the report to incorporate several FCC Form M schedules. The public was invited to participate in the proceeding to modify the information collection requirement via an Order Inviting Comments released by the Bureau on 9/4/91. The Bureau believes that the revised FCC Report 43-03 improves the utility of the automated report without placing undue burden on respondents. The Bureau waived the April 1 filing date to allow the carriers sufficient time to prepare and submit the revised requirement. Carriers are to file the FCC Report 43-02 ninety days after publication of a summary of the Order in the *Federal Register*.

**OMB Number:** 3060-0099.

**Title:** FCC Form M—Annual Report Form M.

**Form Number:** FCC Form M.

**Action:** Revised collection.

**Respondents:** Businesses or other for-profit.

**Frequency of Response:** Annually.

**Estimated Annual Burden:** 52 responses; 1,400 hours average burden per response; 72,800 hours total annual burden.

**Needs and Uses:** The Commission delegated authority to the Common Carrier Bureau (CCB) to determine and revise the format and media for automated reporting requirements. The FCC also directed CCB to review the FCC Form M to determine, among other things, which schedules were suitable for mechanization and to incorporate them into the automated reporting system. An Order Inviting Comments was released 9/4/91 to give the public an opportunity to participate in the proceeding to automate twelve Form M schedules. Comments were requested on the proposed revision of four Form M schedules and to incorporate these four schedules and eight additional Form M schedules into the FCC's automated reporting system. The Bureau revised two of the statistical schedules, Schedules S-2 and S-3, by providing additional information about the technology and service characteristics of carrier access lines. (See the attached OMB request for approval of ARMIS Operating Data Report and Memorandum of Opinion & Order (MO&O). Automating and organizing data submitted to the Commission will facilitate the timely and efficient analyses of revenue requirements and rate of return, provide an improved basis for

auditing and other oversight functions and enhance the FCC's ability to quantify the effects of policy proposals. Carriers are to file the revised FCC Form M report ninety days after publication of a summary of the Order in the *Federal Register*. The data are used by staff members in the regulation of the telephone industry and by the public in analyzing the industry.

**OMB Number:** None.

**Title:** ARMIS Operating Data Report.

**Report Number:** FCC Report 43-08.

**Action:** New collection.

**Respondents:** Businesses or other for-profit.

**Frequency of Response:** Annually.

**Estimated Annual Burden:** 50 responses; 160 hours average burden per response; 8,000 hours total annual burden.

**Needs and Uses:** The FCC Report 43-08 is one of several reporting requirements comprising the Automated Reporting and Management Information System (ARMIS). ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The FCC Report 43-08 consists of statistical schedules previously contained in FCC Form M which are needed by the FCC to monitor network growth, usage, and reliability. The Common Carrier Bureau believes that the new FCC Report 43-08 enhances the FCC's ability to process and analyze the data needed to administer its rules without placing undue burden on the respondents. Carriers are to file the FCC 43-08 report ninety days after publication of a summary of the Order in the *Federal Register*.

Federal Communications Commission

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 92-3877 Filed 2-18-92; 8:45 am]

**BILLING CODE 6712-01-M**

#### **Petitions for Reconsideration of Action in Lowest Unit Charge Requirement of Section 315(b)**

January 30, 1992.

Petitions for reconsideration have been filed in connection with Declaratory Ruling, Exclusive Jurisdiction With Respect to Potential Violations of the Lowest Unit Charge Requirements of section 315(b) of the

Communications Act of 1934, as amended adopted December 12, 1991 and released December 13, 1991. The full text of these documents are available for viewing and copying in room 616, 1919 M Street, NW., Washington, DC., or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452-1422.

The procedures and time limits set forth in section 1.429 of the Commission's rules will apply to the filing of any petitions for reconsideration of the Declaratory Ruling and any oppositions and replies thereto.

Federal Communications Commission.

**Donna R. Searcy,**

*Secretary.*

[FR Doc. 92-4020 Filed 2-18-92; 8:45 am]

**BILLING CODE 6712-01-M**

#### **FEDERAL MARITIME COMMISSION**

#### **Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Kloster Cruise Limited (d/b/a Norwegian Cruise Line), 95 Merrick Way, Two Alhambra Plaza, Coral Gables, FL 33134

Vessels: Dreamward and Windward.

Dated: February 13, 1992.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 92-3869 Filed 2-19-92; 8:45 am]

**BILLING CODE 6730-01-M**

#### **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

#### **Food and Drug Administration**

[Docket No. 92N-0001]

#### **Solvay Animal Health, Inc.; Withdrawal of Approval of NADA's**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.



**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) held by Solvay Animal Health, Inc. The NADA's provide for use of Wormal Tablets and Wormal Granules (butynorate, phenothiazine, and piperazine in combination) as an anthelmintic in chickens and turkeys. The firm requested withdrawal of the approvals. In a final rule published elsewhere in this issue of the *Federal Register*, FDA is amending the regulations by removing the entry that reflects these approvals.

**EFFECTIVE DATE:** June 30, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mohammad I. Sharar, Center for Veterinary Medicine (HFV-216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8749.

**SUPPLEMENTARY INFORMATION:** Solvay Animal Health, Inc., 2000 Rockford Rd., Charles City, IA 50616-9989, is the sponsor of NADA 10-335, which provides for use of Wormal Tablets for individual bird treatment and NADA 10-447, which provides for use of Wormal Granules Type A Medicated Article to make Type B and C medicated feeds. Both products contain butynorate, phenothiazine, and piperazine in combination. By letter dated November 26, 1991, Solvay Animal Health, Inc., requested that FDA withdraw approval of NADA's 10-335 and 10-447 and stated that it would cease marketing the products by June 30, 1992.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 Withdrawal of approval of applications (21 CFR 514.115), notice is given that approval of NADA's 10-335 and 10-447 and all supplements and amendments thereto is hereby withdrawn, effective June 30, 1992. In its letter requesting withdrawal, the sponsor agreed to retrieve and dispose of in accordance with applicable environmental laws and regulations any unused product after that date.

In a final rule published elsewhere in this issue of the *Federal Register*, FDA is amending 21 CFR 558.4(d) to remove the entry for medicated feed applications containing butynorate, piperazine, and phenothiazine.

Dated: February 12, 1992.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 92-3866 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

### Consumer Participation; Open Meeting

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topic to be discussed is food labeling reform.

**DATES:** Thursday, February 20, 1992, 10 a.m. to 11 a.m.

**ADDRESSES:** Esperanza Unida, 1329 West National Ave., Milwaukee, WI 53204.

**FOR FURTHER INFORMATION CONTACT:** Steve Davis, Public Affairs Specialist, Food and Drug Administration, U.S. Courthouse, 517 East Wisconsin Ave., rm. SB-06, Milwaukee, WI 53202, 414-297-3097.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decision on vital issues.

Dated: February 12, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 92-3867 Filed 2-19-92; 8:45 am]

BILLING CODE 4160-01-M

### DEPARTMENT OF THE INTERIOR

#### Bureau of Indian Affairs

#### Fiscal Year 1992 Bureau of Indian Affairs Community and Economic Development Grant Program (CEDGP) Announcement

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice of grant availability for fiscal year 1992.

**SUMMARY:** The Bureau of Indian Affairs is publishing this notification to solicit Competitive Grant proposals for fiscal year 1992 financial assistance to American Indian tribes and Alaskan Native villages.

**DATES:** All applications for this program must be postmarked not later than April 20, 1992.

**ADDRESSES:** See address at end of SUPPLEMENTARY INFORMATION.

**FOR FURTHER INFORMATION CONTACT:** Patrick Hayes, (202) 208-5831, Bureau of Indian Affairs, Office of Trust and

Economic Development, MS-4513, 1849 C Street, NW., Washington, DC 20240

William Sinclair, (202) 219-0240, Department of the Interior, Office of Self-Governance, MS-2253-MIB, 1849 C Street, NW., Washington, DC 20240

**SUPPLEMENTARY INFORMATION:** The following announcement of procedures for the application for and awarding of grants under the Community Economic Development Grant Program (CEDGP) is made as an exception to the policy of the Department of the Interior to do Rule Making, 36 FR 8336 (1971). This exception is made to that policy for the following reasons. CEDGP was justified to Congress and Congress appropriated funds for CEDGP as a new pilot program. Operational experience is needed to enable appropriate rule making for the program to be undertaken for future years. This announcement provides sufficient structure for FY 1992 pilot program as well as a fair and open process for tribal application and competition for the 1992 grant. Just as importantly, the flexibility which the announcement procedure provides will enable the Bureau of Indian Affairs to put into effect in 1992 all aspects of the demonstration program as it was justified to and intended by Congress. Without this exception from the 1971 policy that commitment could not be accomplished. Accordingly, the CEDGP grants for 1992 will be made on the bases stated in the following announcement.

#### A. Introduction and Purpose

In fiscal year 1992 the Bureau of Indian Affairs has budgeted 4.9 million dollars for a discretionary grant program, for Indian tribes and Alaska Native Villages as described in this announcement. The Community and Economic Development Grant Program (CEDGP) provides competitive grants to tribes for locally designed community and economic development grant projects. This notification is to provide the applicants the necessary information required to apply for the program. The Bureau of Indian Affairs believes that responsibility for achieving self-reliance rests with the governing bodies of Indian tribes and Alaska Native villages. Achievement of self-reliance is based on these governing bodies' abilities to develop a strategy and to plan, organize and direct resources in a comprehensive manner to achieve their long-range goals.

The program's goal is to provide a stable source of funding over a five year period to selected proposals from Indian Tribes and Alaska Native Villages for



reservation development in accordance with local goals and objectives.

A wide variety of projects and activities will be considered provided they are linked to a set of economic development goals and objectives adopted by the tribe. Further, specific time frames will need to be identified so that the progress achieved can be monitored.

Funding for the first 12 month grant is competitive as described below. Funding after the first grant is noncompetitive and is contingent upon the grantee's satisfactory progress in achieving the objectives of its plan, the availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements.

The purpose of the program is to foster the development of stable, diversified local economies and economic activities which will provide jobs, promote economic well-being and reduce dependence on public funds and social services. The program will be evaluated on an on-going basis.

#### B. Proposed Projects To Be Funded

Approximately \$4.9 million of financial assistance is available under this program announcement.

Grants will be made available for any economic and community development purpose that is consistent with the tribal economic development plan or strategy including: (1) Reducing unemployment through job development activities; (2) Providing seed money to Indian entrepreneurs to establish reservation based enterprises; (3) Improving tribal basic physical and service infrastructures; (4) Developing and conserving natural resources belonging to the tribe; (5) Procuring technical assistance for developing marketing plans and conducting feasibility studies; (6) Conducting a community-wide inventory of all tribal and other public and private resources with the intent to coordinate development activities; and (7) other reservation development projects.

The Bureau of Indian Affairs encourages applicants to design projects to achieve their specific economic goals that use available human, natural, financial and physical resources to which the applicant has access. Non-BIA resources should be marshalled to strengthen and broaden the proposed project impact in the community. Project designs should explain the means through which those parts of the projects which the BIA does not fund will be financed from other sources.

In order to assure an equitable competition between the tribes of the

total amount that is available, the following approximated fund distribution will be followed which allows some portion to administer the program:

	Million
Small tribes (population of 1,500 and less).....	\$0.75
Medium tribes (population of 1,500 to 10,000).....	1.80
Large tribes (population of 10,000 or more).....	1.70
Alaska.....	.45

In addition, in the selection of grants, an attempt will be made to achieve wide geographic representation.

#### C. Grant Amount

In preparing budgets for the BIA funding share of total project budget, the tribes cannot exceed the amount from the following formula: a core grant amount (\$20,000) plus (+) \$30 times (×) the reservation population as taken from the 1990 Census, plus (+) {\$.25 times (×) the tribal trust acreage times (×) the weighted unit number}.

Grant amount = \$20,000 + (\$30 × 1990 Population) + (\$.25 × Tribal trust acreage × weighted unit number)

Numbers for the weighted units range from 1 to 15 with the smallest trust land based tribes weighted by a factor of 15 and the remainder as follows:

	Weighted units
0 to 450 acres .....	15
450 to 1,000 .....	14
1,001 to 3,000 .....	13
3,001 to 5,000 .....	12
5,001 to 7,000 .....	11
7,001 to 9,000 .....	10
9,001 to 20,000 .....	9
20,001 to 40,000 .....	8
40,001 to 60,000 .....	7
60,001 to 80,000 .....	6
80,001 to 100,000 .....	5
100,001 to 200,000 .....	4
200,001 to 400,000 .....	3
400,001 to 600,000 .....	2
600,001 and above .....	1

For the purpose of this pilot program, an award cap has been placed on grants so that no tribe may be awarded more than \$1.5 million per year. This maximum amount has been set in order to provide opportunity for more varied projects during the pilot phase of the program. It is not anticipated that it would be continued depending on funding levels if the program is made permanent.

Proposals that total less than the formula allowance will be eligible. For

first year funding only an allowance of up to 15% of the grant amount will be added by the BIA to cover the tribal start up costs.

#### D. Eligible Applicants

The governing body of any tribe, Native Alaska Village or duly authorized multi-tribal organization (e.g. a consortium of tribes banding together to meet basic population criteria) may apply for a grant under this announcement provided that each submits a timely application as described in section G.

The functioning tribal government must serve a population of at least 150 Indians/Native Alaskans. If a consortium organization is formed utilizing populations of less than 150 to meet this eligibility criteria, the total of all populations combined must meet or exceed the 150 person criteria.

#### E. Grant Period

The initial period of grant performance will be one year; i.e. twelve months, commencing from the date of award. Funding after the first grant is non-competitive and is contingent upon the grantee's satisfactory progress in achieving the objectives of its plan, and availability of Federal funds, and compliance with the applicable statutory, regulatory and grant requirements.

#### F. Multi-Year Projects

Applicants are encouraged to develop multi-year projects of up to 60 months duration. A multi-year project affords applicants the opportunity to develop more complex and in-depth projects than can be completed in one year.

A multi-year project is one that takes more than 12 months to complete and is a series of related projects or activities presented in chronological order over a period of as many as 5 years. Funding after the first 12 month grant is non-competitive as described above in the grant period section.

#### G. Contents of the Application and Ranking Factors

##### 1. Contents of Application

Applications for a grant in response to this announcement shall follow the application requirements set forth in Office of Management and Budget Circular A-102, Uniform Requirements for Assistance to State and Local Governments, and attachments prescribed by such Circular. Under part A-102 6.C, 4 and 5, Program Narrative Statement, applicants shall provide the following:



(a) A resolution passed by the tribal council stating the tribe's goals and objectives for the five years for the CEDGP funding;

(b) A characterization of the economic, social and demographic environments of the reservation;

(c) A broad outline of the anticipated five year program including a plan for the first year's activities;

(d) A discussion of the objective, quantifiable measures that will be used to assess the impact of the CEDGP funding and to present a clear picture of progress of the tribe's activities under the grant in meeting its goals and objectives;

(e) A five year plan of activities or a process description that will be used to develop a five year plan during the first year of operation. While the focus of this program is on projects that stimulate local economic development rather than develop comprehensive plans, a tribe may use a portion of its first years grant to develop a five year plan in more detail. The plan should contain goals, objectives and time frames against which accomplishments may be measured. (If a multi-year project is proposed as described below, then the plan surrounding such a project may be sufficient to meet this requirement.) The process to develop a plan should identify specific steps and approaches to be used by the tribe which will result in the presentation of a preliminary plan to the funding agency by the mid point of the proposed grant terms and final plan by year's end.

(f) A line item budget and narrative justification for each proposed expenditure.

(g) A description of key personnel required, if any, to carry out the activities described in the Program Narrative Statement which have been designed to meet tribal specific goals and objectives, including: (a) Position descriptions, if available; or (b) Descriptions of qualifications, education and experience of key personnel expected to be hired under the terms of the grant.

(h) Tribal grantees shall agree to submit for each grant year a semi-annual financial status and progress report and an annual assessment due by the end of the first quarter of the next succeeding year. The annual assessment report shall document the accomplishment of the proceeding year using the objective, quantifiable measure. By the beginning of the fourth quarter of each grant year, the grantee shall submit an activity plan that specifies how funds shall be used in the next grant period. The semi-annual reports and the activity plan will be

used for determining progress in achieving the objectives of the grantee's plan and assessing the follow-on year grant.

## 2. Ranking Factors

Program applications will be evaluated on the basis of five ranking factors. These factors are used to evaluate the quality of a proposed project, and to determine the likelihood of its success. A proposed project should reflect the purposes of the policy and program goals described in the Introduction and Purpose section of this announcement and include all the contents described above as well as the criteria in 25 CFR part 278.15. The five factors are closely related to each other. They will be considered jointly in judging the overall quality of an application. Points will be given only to applications which are responsive to this announcement and these criteria. The five evaluation factors are:

(a) Long-Range Goals and Available Resources. (0-15 points).

The application presents specific long-range tribal goals related to the proposed project. It explains how the tribe will achieve these goals and clearly documents the involvement and support of the community in the planning process and implementation of the proposed project.

(b) Organizational Capabilities and Qualifications. (0-10 points).

(1) The management and administrative structure of the applicant is explained. Evidence of the applicant's desire and ability to operate as an independent and stable government will receive highest marks.

(2) Position descriptions or resumes of key personnel, including those of consultants, are presented. The position descriptions and resumes relate specifically to the staff proposed in the budget of the application. Resumes indicate that the proposed staff are qualified to carry out the project activities.

(c) Project Objective, Approach and Activities. (0-45 points).

The application proposes specific project objectives and activities related to the overall long-term goals. The Objective Work Plan in the application includes project objectives and activities for each budget period proposed and demonstrates that these objectives and activities are:

- clearly feasible in the context of the specific tribal application;
- measurable and/or quantifiable;
- based on a fully described and a locally determined strategy for economic development;

- clearly related to the community's long-range goals which the project addresses;

- accomplished with available or expected resources during the proposed project period;

- completed within clearly specified time periods.

(d) Results or Benefits Expected. (0-20 points).

The proposed project will result in specific, measurable outcomes for each objective that will clearly contribute to the completion of the project. The specific information provided in the application on expected results or benefits for each objective is the basis upon which the outcomes can be evaluated at the end of each budget year. Projects which can be expected to have a positive economic impact on the tribal community will receive the highest marks under this section.

(e) Budget. (0-10 points).

There is a detailed budget provided for each budget period requested. It justifies each line item of the budget.

## H. Guidance to applicants

The following is provided to assist applicants to develop a competitive application:

### (1) Program Guidance

(a) Grant funds will not be provided for projects for which other funding is available.

(b) Award of a grant does not relieve a grantee of the necessity of obtaining any Secretarial approvals needed for the grant program.

(c) Applications will be scrutinized to assure funds committed to this program are not spent on planning alone, i.e. close examination will be given to assure that plans have actual projects or accomplishments specified in them and the plan will be evaluated on the merits of those specific projects and accomplishments.

(d) Under this announcement the BIA will fund projects that present the strongest prospects for actual economic development and job creation. Projects which can reasonably anticipate inclusion of other funding sources in a coordinated effort will receive higher marks than those which do not.

(e) In discussing the problems being addressed in the application, sufficient background and/or history of the tribe concerning these problems and progress to date, as well as the size of the population to be served, should be included so that the appropriateness and potential of the proposed project in strengthening the self-sufficiency of a



tribe in meeting long-range goals or plan will be better understood by reviewers.

(f) An application should demonstrate a clear linkage between the proposed project and the tribe's long-range goals or plan. Projects which demonstrate a strong commitment from the tribe, including matching funds, will receive highest marks.

(g) The project application must clearly identify, in measurable terms, the expected results, benefits or outcomes of the project, and the positive and continuing impact on the community.

(h) Supporting documentation, or other testimonies from concerned interests other than the applicant, should be included to provide support for the feasibility of the project.

(i) Commitments of outside resources toward the implementation of the project as well as tribal commitments to match funds will be positively regarded.

(j) Reviewers are better able to evaluate the feasibility and practicality of a proposed economic development project if the applicant includes a business plan to support the feasibility of the project.

## (2) Technical Guidance

(a) For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

(b) The BIA will accept only one application from any one applicant. If an eligible applicant sends in two applications, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

(c) The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

(d) It is BIA's suggestion that the pages of the application be numbered sequentially from the first page, and that a table of contents be provided. This allows for easy reference during the review process. Simple tabbing of the sections of the application is also helpful to the reviewers.

(e) The grantee may make subgrants or subcontracts under this part provided that such subgrant are for the purpose for which the grant was made and the grantee retains administrative and financial responsibility over the activity.

(f) Monitoring responsibility for approved grants shall rest with Agency offices with guidance, support and assistance provided by Area office, or in the absence of an agency such monitoring responsibility will be provided by the Area office. The Central

office shall have overall responsibility for the approval, administration, and evaluation of grants awarded under this part. Administrative requirements for all grants provided under this part shall be those prescribed in 25 CFR part 276, save for any which are applicable only to grants awarded under section 104 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450(h).

(3) Projects or Activities that generally will not meet the purposes of this announcement.

(a) Project goals which are not responsive to Economic and/or Community Development.

(b) Proposals from consortia of tribes that are not specific regarding support from, and roles of, member tribes. BIA expects an application from a consortium to have goals and objectives that will create a positive impact in the communities of its members.

(c) Projects originated and designed by consultants who are not members of the applicant organization, tribe or village who prepared the application and provide a major role for themselves in the proposed project.

## I. Submission of Application

Applications submitted in response to this announcement must:

(1) Be postmarked not later than April 20, 1992.

(2) Be received in the Office of Trust and Economic Development no later than the close of business April 20, 1992.

(3) Consist of an original grant application and two (2) copies. Applications shall be mailed or hand delivered to: Department of the Interior, Bureau of Indian Affairs, Attention: Office of Trust and Economic Development, MS-4513-MIB, 1849 C Street, NW., Washington, DC 20240.

Dated: February 13, 1992.

William D. Bettenberg,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 92-3902 Filed 2-19-92; 8:45 am]

BILLING CODE 4310-02-M

## Bureau of Land Management,

### Susanville District Advisory Council; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Meeting of Susanville District Advisory Council.

**SUMMARY:** Notice is hereby given in accordance with Public Law 95-579 (FLPMA) that the Susanville District Advisory Council will hold a business meeting on Tuesday, March 31, 1992,

from 10 a.m. to 4:30 p.m. in the Conference Room of the Bureau of Land Management's Susanville District Office, 705 Hall Street, Susanville, CA, 96130. Topics scheduled for discussion include the status of a proposed withdrawal by Sierra Army Depot, the current status of the District's application for California Off Highway Vehicle funds, progress on the development of a vegetation management plan for the East Lassen area, the status of California and Nevada wilderness packages, and the status of proposals to create a National Conservation Area in High Rock Canyon and parts of the Black Rock Desert. The Council will also discuss the Susanville District nomination for the California District Advisory Council Conservation Award.

The meeting is open to the public, and interested persons may make oral statements or file a written statement for the council's consideration. Those wishing to make oral statements must contact the District Manager, 705 Hall St., Susanville, CA 96130, by Monday, March 23, 1992. Depending on the number of persons wishing to speak, a time limit may be imposed.

For further information, contact: Jeff Fontana, (916) 257-5381.

John Bosworth,

Acting District Manager.

[FR Doc. 92-3910 Filed 2-19-92; 8:45 am]

BILLING CODE 4310-40-M

## INTERNATIONAL TRADE COMMISSION

### Agency Form Submitted for OMB Review

**AGENCY:** United States International Trade Commission.

**ACTION:** In accordance with the provision of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

**Purpose of Information Collection:** The proposed information collection is for use by the Commission in connection with investigation No. 332-320, Macadamia Nuts: Economic and Competitive Factors Affecting the U.S. Industry, instituted under the authority of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332).

**Summary of Proposal:** (1) Number of Forms Submitted: Three.

(2) Title of Form: Macadamia Nuts: Economic and Competitive Factors



Affecting the U.S. Industry—  
Questionnaires for U.S. (1) Growers, (2) Grower/Processors, and (3) Importers.

(3) *Type of Request:* New.

(4) *Frequency of Use:* Nonrecurring.

(5) *Description of Respondents:* Firms which grow, process, or import macadamia nuts and macadamia nut products.

(6) *Estimated Number of Respondents:* Growers: 131, based on an estimated response rate of 50 percent. Processors: 8, based on an estimated response rate of 80 percent. Importers: 16, based on an estimated response rate of 50 percent.

(7) *Estimated total number of hours to complete the forms:* The Commission estimates a response time of 30 hours per questionnaire for growers and importers and 40 hours per questionnaire for grower/processors.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

**ADDITIONAL INFORMATION OR COMMENT:** Copies of the proposed form and supporting documents may be obtained from David L. Ingersoll (USITC telephone no. (202)-205-3309). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Attention: Ms. Lin Liu, Desk Officer for U.S. International Trade Commission. Any comments should be specific, indicating which part of the questionnaire is objectionable, describing the problem in detail, and including specific suggested revisions or language changes.

**SUBMISSION OF COMMENTS:** Comments should be submitted to OMB within 2 weeks of the date this notice appears in the *Federal Register*. If you are unable to submit them promptly you should advise OMB within the 2 week period of your intent to comment on the proposal. Ms. Liu's telephone number is (202) 395-7340. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 500 E Street SW., Washington, DC 20436).

Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

By order of the Commission.

Issued: February 10, 1992.

Kenneth R. Mason,  
Secretary.

[FR Doc. 92-3929 Filed 2-19-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-335]

### Certain Dynamic Sequential Gradient Compression Devices and Component Parts Thereof; Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337 and provisional acceptance of motion for temporary relief.

**SUMMARY:** Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on January 17, 1992, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of The Kendall Company, 15 Hampshire Street, Mansfield, Massachusetts 02048. A supplement was filed on January 28, 1992.

The complaint alleges a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic sequential gradient compression devices and component parts thereof by reason of alleged infringement of claims 1, 2, 5, 8, 9, 11-13, 17-20, 25 and 27 of U.S. Letters Patent 4,029,087, and that there exists an industry in the United States as required by subsection (a)(2) of section 337. The complaint alternatively alleges unfair methods of competition in the importation of certain dynamic sequential gradient compression devices and component parts thereof in violation of subsection (a)(1)(A) of section 337 by reason of infringement of U.S. Letters Patent 4,029,087, and other conduct. The complaint further alleges that the threat or effect of the asserted unfair methods of competition is to destroy or substantially injure the domestic industry. The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent general exclusion order and permanent cease and desist orders.

The motion for temporary relief, which is limited to the alleged violation of subsection (a)(1)(B)(i) of section 337, requests that the Commission issue a temporary exclusion order and temporary cease and desist orders prohibiting the importation into and the sale within the United States after importation of infringing dynamic sequential gradient compression devices and component parts thereof, during the course of the Commission's investigation.

**ADDRESSES:** The complaint and the motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., room 112, Washington, DC 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**FOR FURTHER INFORMATION CONTACT:** Linda C. Odom, Esq., Office of Unfair Important Investigations, U.S. International Trade Commission, telephone 202-205-2574.

### Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in 210.12 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.12. The authority for provisional acceptance of the motion for temporary relief is contained in 210.24(e) of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.24(e).

### Scope of Investigation

Having considered the complaint and the motion for temporary relief, the U.S. International Trade Commission, on February 13, 1992, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B)(i) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic sequential gradient compression devices and component parts thereof by reason of alleged infringement of claims 1, 2, 5, 8, 9, 11-13, 17-20, 25 or 27 of U.S. Letters Patent 4,029,087, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) Pursuant to rule 210.24(e)(8) of the Commission's Interim Rules of Practice and Procedure, the motion for temporary relief under subsection (e) of section 337 of the Tariff Act of 1930, which was filed with the complaint, be provisionally accepted and referred to an administrative law judge.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served: (a) The complainant is—



The Kendall Company, 15 Hampshire Street, Mansfield, Massachusetts 02048

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint and motion for temporary relief are to be served:

Huntleigh Technology, Inc., 227 Route 33 East, Manalapan, New Jersey 07726  
Huntleigh Technology PLC, 310-312 Dallow Road, Luton, Bedfordshire, England

(c) Linda C. Odom, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., room 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation and temporary relief proceedings so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint, the motion for temporary relief and the notice of investigation must be submitted by the named respondents in accordance with §§ 210.21 and 210.24 of the Commission's Interim Rules of Practice and Procedure. Pursuant to §§ 201.16(d), 210.21(a) and 210.24(e)(9) of the Commission's Rules, such responses will be considered by the Commission if received not later than ten (10) days after the date of service by the Commission of the complaint, the motion for temporary relief and the notice of investigation. Extensions of time for submitting responses to the complaint, the motion for temporary relief and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint, in the motion for temporary relief, and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint, the motion for temporary relief, and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint, motion for temporary relief, and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: February 13, 1992.

By order of the Commission.  
Kenneth R. Mason,  
Secretary.  
[FR Doc. 92-3862 Filed 2-19-92; 8:45 am]  
BILLING CODE 7020-02-M

(Investigation No. 701-TA-313  
(Preliminary))

#### Portable Seismographs from Canada

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution and scheduling of a preliminary countervailing duty investigation.

**SUMMARY:** The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-313 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of portable seismographs, provided for in subheading 9015.80.60 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada. The Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by March 30, 1992.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

**EFFECTIVE DATE:** February 12, 1992.

**FOR FURTHER INFORMATION CONTACT:** Tedford Briggs (202-205-3181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contracting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

#### SUPPLEMENTARY INFORMATION:

**Background.**—This investigation is being instituted in response to a petition filed on February 12, 1992, by GeoSonics Inc., Warrendale, PA.

**Participation in the investigation and public service list.**—Persons (other than petitioners) wishing to participate in the

investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the *Federal Register*. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

**Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.**—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

**Conference.**—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 4, 1992, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202-205-3181) not later than February 28, 1992, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

**Written submissions.**—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 9, 1992, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.



In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 13, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92-3927 Filed 2-19-92; 8:45 am]

BILLING CODE 7020-02-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-26, 596]

#### Epson Portland, Inc., Hillsboro, OR; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Epson Portland, Inc., Hillsboro, Oregon. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-26; 596; Epson Portland, Incorporated Hillsboro, Oregon (February 11, 1992)

Signed at Washington, DC, this 11th day of February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-3932 Filed 2-17-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26, 153]

#### General Electric—Aerospace Defense Systems Department Pittsfield, MA; Negative Determination on Reconsideration

On November 6, 1991, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of General Electric—Aerospace Defense Systems Department in

Pittsfield, Massachusetts. This notice was published in the **Federal Register** on November 15, 1991 (56 FR 58092).

The company submitted new sales information to replace their initial submission which was based on a rising forecast for 1991. The new sales data shows actual first half 1991 and 1990 sales data by product group as requested by the Department.

New findings obtained on reconsideration show that Weapons Equipment sales increased in the first half of 1991 compared to the first half of 1990 while sales declines occurred in Fire Control, Guidance Systems, Shipboard Equipment, Phalanx, Vehicle Equipment and Advanced Programs for the same period. However, the findings also show that imported purchased components were either non existent or negligible for the above mentioned product lines in 1990 and 1991.

New findings obtained on reconsideration show that Weapons Equipment sales increased in the first half of 1991 compared to the first half of 1990 while sales declines occurred in Fire Control, Guidance Systems, Shipboard Equipment, Phalanx, Vehicle Equipment and Advanced Programs for the same period. However, the findings also show that imported purchased components were either non existent or negligible for the above mentioned product lines in 1990 and 1991. Other findings on reconsideration show that the imported purchased components were not produced at Pittsfield during the period relevant to the investigation.

Other findings on reconsideration show that the Aegis missile contract was not lost to an offshore supplier and was still with Pittsfield as of September, 1991. If worker separations occur as the result of the loss of the Aegis missile contract to a foreign supplier, the Department would entertain a new petition.

Officials with the company indicated that worker separations at Pittsfield during the period of the Department's investigation were the result of a corporate restructuring and the scaling down of defense purchases.

### Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of General Electric Aerospace Defense Systems Department, Pittsfield, Massachusetts.

Signed at Washington, DC, this 12th day of February 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Services Unemployment Insurance Service.

[FR Doc. 92-3930 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M

#### Job Training Partnership Act: Native American Programs' Advisory Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, and section 401(h)(1) of the Job Training Partnership Act, as amended 29 U.S.C. 1671(h)(1), notice is hereby given of a change in the time reserved for participation and presentations by members of the public during a meeting of the Job Training Partnership Act Native American Programs' Advisory Committee. In order to ensure maximum opportunity for public input, the time for such participation as previously published in the **Federal Register** on February 7, 1992 (52 FR 4776) has been changed.

**Time and Date:** The meeting will begin at 1:30 p.m. on March 5, 1992, and continue until close of business that day; and will reconvene at 9 a.m. on March 6, 1992, and adjourn at close of business that day. From 1:30 to 4:30 p.m. on March 5 will be reserved for participation and presentations by members of the public.

**Place:** Navajo Rooms A, B and C (March 5) and Hopi Rooms A & B (March 6). Omni Adams Hotel, 111 North Central Avenue, Phoenix, Arizona.

**Status:** The meeting will be open to the public.

**Matters to be considered:** The agenda will focus on a discussion of enhancing the quality of Indian and Native American programs, the Department's responses to the motions of the January 15-16, 1992 meeting, and any reports of the subcommittees.

**Contact Person for More Information:** Paul A. Mayrand, Director, Office of Special Targeted Programs, Employment and Training Administration, United States Department of Labor, room N-4641, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-535-0500 (this is not a toll-free number).

Signed at Washington, DC, 14th day of February, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92-3964 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M



[TA-W-26, 553]

**Sundor Brands, Weslaco, TX;  
Dismissal of Application for  
Reconsideration**

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Sundor Brands, Weslaco, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-26, 553; Sundor Brands  
Weslaco, Texas (February 11, 1992)

Signed at Washington, DC, this 11th day of  
February, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment  
Assistance.

[FR Doc. 92-3933 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-30-M

**Occupational Safety and Health  
Administration****Alaska State Standards; Notice of  
Approval****1. Background**

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On September 28, 1984, notice was published in the *Federal Register* (49 FR 38252) announcing final approval of the State's plan and amending subpart R of part 1952.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letters dated September 15, 1989, and September 15, 1990, from Tom Stuart, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standard amendments comparable to 29 CFR 1910.1000, Air Contaminants, as published in the *Federal Register* (54 FR 2920) on January 19, 1989 and corrected (54 FR 28059) on July 5, 1989, and (54 FR 47513) on November 15, 1989. The State's Air Contaminants standard amendments, which are contained in AAC.04. of the Occupational Health and Environmental Code, were promulgated after notifications of the State's proposed amendments in the statewide media April 28 through May 5, 1989, and on December 29, 1989, and January 5, 1990; public hearings on the uncorrected rule were held May 31 through June 2, 1989; no hearings were requested for the corrections. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's original standard amendments were adopted on June 23, 1989, with an effective date of August 23, 1989; the corrections were adopted on February 12, 1990, and became effective on August 8, 1990. The State incorporated editorial modifications, including using the State's numbering system; they also changed the word "shall" to "must", and elected to omit references to operations/industries not found in Alaska. Alaska also chose to retain a State-initiated provision at AAC .04.0101(f) adopted in May, 1976 which requires engineering controls to suppress drilling dust whenever percussion drilling is performed.

Also in response to Federal standards changes, the State has submitted by letter dated November 21, 1990, from Mr. Stuart to Mr. Lake and incorporated as part of the plan, a State standard comparable to 29 CFR 1910.1450, Hazardous Chemicals in Laboratories, as published in the *Federal Register* (55 FR 3300) on January 31, 1990, and corrected (55 FR 7967) on March 6, 1990. The State's Laboratory standard, which is contained in AAC .04. of the Occupational Health and Environmental Code, was promulgated after notifications of the State's proposed standard in the statewide media, were made on April 4 and 11, 1990; public hearings were held May 8 through 10, 1990. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's standard was adopted on July 15, 1990, with an effective date of September 30, 1990. The

State incorporated editorial modifications, including use of the State's numbering system and changing the word "shall" to "must".

By letter dated November 14, 1978, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted a complete revision to its Explosives Codes which repeals the State's AAC 01.309, Explosives and Blasting Agents, in response to 29 CFR 1910.109 which was previously approved in the *Federal Register* (38 FR 21628) on August 10, 1973; and the State's AAC 05.210, Blasting and the Use of Explosives, in response to 29 CFR 1926, subpart U which was previously approved in the *Federal Register* (41 FR 53077) on December 3, 1976. The State's November 14, 1978 submission, AAC 09., a Unified Explosives Code, responds to both 29 CFR 1910.109 as appears in the *Federal Register* at Vol. 39, No. 125 dated June 27, 1974 and 29 CFR 1926, Subpart U as appears in the *Federal Register* at Vol. 39, No. 122 dated June 24, 1974. Regional review revealed discrepancies in the State's Explosives Code and returned it to the State on December 29, 1979 for corrections. On May 5, 1983, Alaska forwarded its first resubmission with a corrective amendment. On August 12, 1983, Region X returned the State's resubmission for further corrections. On December 7, 1984, Alaska forwarded its second resubmission with a corrective amendment. On March 27, 1985, the submission was forwarded to the OSHA National Office for review and on November 6, 1985, the National Office directed that additional corrections be made. On March 11, 1987, Alaska forwarded its third Explosives Code corrective amendment to Region X. On March 29, 1988, Alaska forwarded a minor State-initiated amendment to its Explosives Code that more clearly specifies who is required to have a certificate of fitness for certain tasks associated with explosives handling. In response to Federal standards changes, Alaska forwarded on June 20, 1988, an amendment to its Explosives Code at AAC 09.230(e)(5) comparable to 29 CFR 1926.903(e), Underground Transportation of Explosives, as amended and published in the *Federal Register* (52 FR 36382) on September 28, 1987.

The State's Unified Explosives Code, Subchapter AAC 09., was adopted on December 27, 1977, with an effective date of January 26, 1978 after public notification of the comment period was published in the statewide media on the following dates: July 16, 19, 23, 26, 27, 30,



1976; December 7, 9, 14, 16, 20, 23, 1976; April 1, 2, 8, 9, 15, 16, 1977; August 26, 27, 31, 1977; September 2, 3, 9, 10, 14, 1977. A public hearing was held on October 10, 1977. Subsequently, the State's first corrective amendment was adopted on February 23, 1983, with an effective date of March 22, 1983, after public notification of the comment period, was published in the statewide media on December 28, 1981 and January 4, 11, 18, 1982. Public hearings were held on January 27, 28, and February 1, 1983. The State's second corrective amendment was adopted on May 17, 1984 with an effective date of June 16, 1984, after public notification of the comment period was published in the statewide media on November 4, 10, 1983. Public hearings were held on December 14, 15, 16, 1983. The State's third corrective amendment was adopted on December 19, 1986, with an effective date of January 18, 1987, after public notification of the comment period was published in the statewide media on September 17, 22, 1986. Public hearings were held on October 22, 23, 26, 1986. On March 29, 1988, Alaska submitted a State-initiated amendment to its Unified Explosives Code that was adopted on February 8, 1988 and was made effective on March 26, 1988, after public notification of the comment period was published in the statewide media on November 25, 1987 and December 2, 1987. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. No requests for a hearing were received. On June 20, 1988 Alaska submitted an amendment to its Unified Explosives Code in response to Federal standards changes that were adopted on March 25, 1988 with an effective date of May 22, 1988, after public notification of the comment period was published in the statewide media on January 13, 15, 20 and February 10, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020.

The amended explosives standard contains the following differences which OSHA considers to be either minor or adopted in 1977: (1) The State has retained several of the OSHA revoked standards. The retention of the revoked standards received Federal Register approval (53 FR 20389) on June 3, 1988; (2) Due to the compelling local conditions of continuous darkness during the winter months in Alaska, the State since 1977 has permitted nighttime blasting operations, if additional safety requirements are met; (3) Since 1977 the State has required persons handling explosives to be supervised by holders

of a certificate of fitness, or blaster's permit (the Federal standard allows only authorized and qualified persons to handle explosives). Since 1977 the State has also required all persons placing explosives for detonation, installing primers, etc., or detonating explosives to obtain a certificate of fitness. (4) The State in 1977 incorporated the more recent codes of the U.S. Department of Transportation; Bureau of Alcohol, Tobacco and Firearms; the American Table of Distances for Storage of Explosives; and the Institute of Makers of Explosives in order to be consistent with parallel State statute law addressing explosives, and the State has incorporated the provisions of OSHA Instruction STD 3-19.1. The State has also substituted the words "may not" and "must" in its code for the Federal terms "shall not" and "shall"; and editorial changes have been made to accommodate the State's codification and numbering system.

In response to Federal standards changes, the State has submitted by letter dated June 20, 1988 from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards amendments comparable to 29 CFR 1926.550(b)(2) and 552(c)(15) as amended and published in the Federal Register (52 FR 36382) on September 28, 1987. The State's original standards were published in the Federal Register (41 FR 53077) on December 3, 1976. These State standards amendments, which are contained in AAC 05., Construction, correspond to Federal standards amendments as follows: AAC 05.140(a)(2)(B)/29 CFR 1926.550(b)(2), Cranes and Derricks; AAC 05.140(a)(3)(O)/29 CFR 1926.552(c)(15), Material Hoists, Personnel Hoists and Elevators. The State standards amendments were promulgated after public hearings were held on February 29, and March 1, and 2, 1988. Notifications of the hearings were published in the statewide media on January 13, 15, 20, and February 10, 1988. The public comment period was open for thirty days by Jim Sampson, Commissioner, under authority vested by AS 19.60.020. The State's standards amendments were adopted on March 25, 1988 with an effective date of May 22, 1988. The State incorporated editorial modifications consisting of using the State's numbering system and changing the word "shall" to "must".

On its own initiative, the State has submitted by letter dated August 22, 1985, from Jim Robison, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a

corrective amendment to Alaska Subchapter 01, General Safety Code, comparable to OSHA standard 29 CFR 1910, General Industry. Five of the seven corrected rules address ladders comparable to 29 CFR 1910.25(c). The State's original standard received Federal Register approval at 38 FR 21628 on August 10, 1973. One corrected rule, AAC 01-0809(c)(5) addressing Mechanical Power-Transmission Apparatus, is comparable to 29 CFR 1910.219(c)(5)(V), and is now identical to the Federal standard. The State's original standard received Federal Register approval at 38 FR 21628 on August 10, 1973. The remaining corrected rule, AAC 01.1002(a)(4)(C)(ii), addressing Welding, Cutting and Brazing, is comparable to 29 CFR 1910.252(a)(4)(iii)(b) and is now substantially identical to the Federal standard. The State's original standard received Federal Register approval at 40 FR 50582 on October 30, 1975. The State's standard amendment was promulgated after notifications were published in the statewide media on March 8 and 13, 1985. No request for a public hearing was received. The public comment period was open for thirty days by Jim Robison, Commissioner, under authority vested by AS 19.60.020. The State standard amendment was adopted on May 10, 1985, with an effective date of June 9, 1985. The State incorporated the State's numbering system.

By letter dated March 29, 1988, from Jim Sampson, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, the State on its own initiative submitted an amendment to AAC 07., Logging Code, Article 1. The Code was originally approved in the Federal Register (41 FR 5649) on December 28, 1976. The State standard amendment, which adds paragraph 07.140(a)(7), was adopted by the State on February 8, 1988, with an effective date of March 26, 1988, under authority vested in Jim Sampson, Commissioner, by AS 18.60.020, and after notice and opportunity for public comments under AS 44.62.190, 44.62.200, and 44.62.210. The State-initiated amendment was developed to address the hazards of employee exposure to saplings being bent over or broken by running lines being tensioned during logging operations. It requires rigging crews to move away from standing saplings before the lines are tensioned.

## 2. Decision

OSHA has determined that amendments for Hazardous Chemicals in Laboratories; Cranes and Derricks



and Material Hoists, Personnel Hoists, and Elevators; General Safety Code, Corrective Amendments; and Logging Amendment are at least as effective as the comparable Federal standard amendments as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal amendments are minimal and that the standards are thus substantially identical. OSHA has determined that the State's amendment to its Logging standards is a minor work practice amendment that is substantially identical to the general standards provisions that OSHA would enforce in a comparable enforcement situation. OSHA therefore approves these substantially identical standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

OSHA has determined that the State standard amendments for Explosives Code and Air Contaminants are at least as effective as the comparable Federal Standards as required by section 18(c)(2) of the Act. Having reviewed the State submissions in comparison with the Federal standards, it has been determined that Alaska's amended Explosives code contains some different provisions that have been in effect since 1977 and that the remaining differences in the State's Explosive's Code are minimal. OSHA has further determined that with the exception of Alaska's percussion drilling provision which has been in effect since May 1976 the differences between the State and Federal Air Contaminants standards are minimal. During this time OSHA has received no indication of significant objection to the State's different standards either as to their effectiveness in comparison to the Federal standard or to their conformance with the product clause requirements of section 18(c)(2) of the Act. (A different State standard applicable to a product which is distributed or used in interstate commerce must be required by compelling local conditions and not unduly burden interstate commerce.) OSHA, therefore, approves these different standards. However, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

### 3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the Occupational Safety and Health Administration, 1111 Third Avenue, suite 715, Seattle,

Washington 98101-3212; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99802; and the Office of State Programs, Occupational Safety and Health Administration, room N-3476, 200 Constitution Avenue, NW., Washington, DC 20210.

### 4. Public Participation.

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

a. The standard amendments were adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be repetitious.

This decision is effective February 20, 1992.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington, this 14th day of August, 1991.

James W. Lake,

Regional Administrator.

[FR Doc. 92-3931 Filed 2-19-92; 8:45 am]

BILLING CODE 4510-26-M

## OFFICE OF NATIONAL DRUG CONTROL POLICY

### President's Drug Advisory Council; Meeting

**AGENCY:** President's Drug Advisory Council; Office of National Drug Control Policy.

**ACTION:** Notice of open meeting.

**SUMMARY:** Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of a meeting of the President's Drug Advisory Council.

**DATE AND TIME:** March 11, 1992 from 1:30 to 3:30 p.m.

**PLACE:** The meeting will be held in room 476 of the Old Executive Office Building (OEOB), Washington, DC 20500.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Cavanagh, Confidential Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20500, (202) 466-3100.

**SUPPLEMENTARY INFORMATION:** The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug policy.

At the session on March 11, the Council will receive an update from its Drug-Free Workplace Committee on the "Drugs Don't Work" program which the committee is developing. The Council will receive an update from its National Coalition Committee on the planning of the second National Leadership Forum. The Council will also discuss with the National Coalition Committee the progress made by the steering committee for a new group, to be known as CADCA (The Community Anti-Drug Coalitions of America).

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466-3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and social security number over the telephone, in order to facilitate clearance into the Old Executive Office Building.

Terence J. Pell,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 92-3593 Filed 2-19-92; 8:45 am]

BILLING CODE 3180-02-M

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Expansion Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Theater Section) to the National Council on the Arts will be held on March 10, 1992 from 9:15 a.m.-6 p.m., March 11-12 from 9 a.m.-7 p.m. and March 13 from 9 a.m.-4:30 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

Portions of this meeting will be open to the public on March 10 from 9:15 a.m.-10:30 a.m. and March 13 from 2 p.m.-4:30 p.m. The topics will be opening remarks, general program overview and policy discussion.

The remaining portions of this meeting on March 10 from 10:30 a.m.-6 p.m., March 11-12 from 9 a.m.-7 p.m. and March 13 from 9 a.m.-2 p.m. are for the



purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 13, 1992.

**Yvonne M. Sabine,**  
*Director, Council and Panel Operations,*  
*National Endowment for the Arts.*  
[FR Doc. 92-3915 Filed 2-19-92; 8:45 am]  
BILLING CODE 7537-01-M

#### **Folk Arts Advisory Panel; Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Folk Arts Advisory Panel (National Heritage Fellowships Section) to the National Council on the Arts will be held on March 11-12, 1992 from 9 a.m.-6 p.m. and March 13 from 9 a.m.-4 p.m. in room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will

be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: February 13, 1992.

**Yvonne M. Sabine,**  
*Director, Council and Panel Operations,*  
*National Endowment for the Arts.*  
[FR Doc. 92-3916 Filed 2-19-92; 8:45 am]  
BILLING CODE 7537-01-M

#### **NUCLEAR REGULATORY COMMISSION**

##### **Advisory Committee on Reactor Safeguards Subcommittee on Planning and Procedures**

##### **Meeting**

The ACRS Subcommittee on Planning and Procedures will hold a meeting on March 4, 1992, room P-422, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

**Wednesday, March 4, 1992—3 P.M. Until 5:30 P.M.**

The Subcommittee will discuss proposed ACRS activities and related matters.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Raymond F. Fraley (telephone 301/492-4516) between 7:30 a.m. and 4:15 p.m., e.s.t. Persons planning to attend this meeting are

urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 13, 1992.

**John C. Hoyle,**  
*Advisory Committee Management Officer.*  
[FR Doc. 92-3922 Filed 2-19-92; 8:45 am]  
BILLING CODE 7590-01-M

##### **Advisory Committee on Reactor Safeguards Joint Meeting of the Subcommittees on Computers in Nuclear Power Plant Operations, Instrumentation and Control Systems, and Human Factors**

##### **Meeting**

The ACRS Subcommittees on Computers in Nuclear Power Plant Operations, Instrumentation and Control Systems, and Human Factors will hold a joint meeting on March 4, 1992, room P-110, 7920 Norfolk Avenue, Bethesda, MD with representatives of the ABB-Combustion Engineering (ABB-CE), Westinghouse Electric Corporation (W), Electric Power Research Institute (EPRI), and the NRC staff.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed to discuss privileged and proprietary information [5 U.S.C. 552b(c)(4)].

The agenda for the subject meeting shall be as follows:

**Wednesday, March 4, 1992—8:30 a.m. Until the Conclusion of Business**

The Subcommittees will discuss Control Room Designs, the Design Process and Associated Human Factors issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, their consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff members named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be



considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of ABB-CE, W, EPRI, and the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Herman Alderman (telephone 301/492-7750) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: February 13, 1992.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 92-3923 Filed 2-19-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

**Duane Arnold Energy Center;  
Consideration of Issuance of  
Amendment to Facility Operating  
License, Proposed No Significant  
Hazards Consideration Determination,  
and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-49, issued to Iowa Electric Light and Power Company (the licensee), for operation of the Duane Arnold Energy Center, located in Linn County, Iowa.

The proposed amendment would revise the Technical Specifications by removing Rod Sequence Control System (RSCS) requirements and reducing the Low Power Setpoint for the Rod Worth Minimizer to 20% rated power. In addition, it would revise the control rod operability and surveillance requirements for greater clarity and consistency with the Standard Technical Specifications and make administrative changes to section 3.3.

The original July 6, 1990 application was amended by the August 30, 1991, submittal to include Rod Worth minimizer operability requirements in section 3.3.C, Reactivity Control Systems.

In a letter dated January 8, 1992, the licensee amended its revision request by

deleting sections 3.2.C.2(a) and 4.2.C.2 from the TS. This change would eliminate (1) the Rod Block Monitor (RBM) requirements when a Limiting Control Rod Pattern exists; these requirements are already addressed in section 3.3.C.3; (2) delete the definition of a Limiting Control Rod Pattern; already contained in paragraph B.2.e. of the 3.3. and 4.3 BASES; and (3) delete the requirement to demonstrate both RBM channels operable prior to control rod withdrawal when a Limiting Control Rod Pattern exists because, instead of this requirement, part of the original amendment request was to change paragraph 4.3.C.3 to require an Instrument Functional Test of the operable RBM channel within 24 hours of rod withdrawal when a Limiting Control Rod Pattern exists and one RBM channel is inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the license has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change will not increase the probability of an accident because the RDA is dependent only on the control rod drive system and mechanisms themselves, and not on the RSCS or RWM systems. The changes to the TSs for these systems affect only the analysis of the RDA [rod drop accident].

The consequences of the RDA as evaluated in the FSAR will not be affected by this modification because an extensive probabilistic study was performed by the NRC staff which indicated that there was not a need for the RSCS. In addition, improvements in the RDA analysis methods indicated that the peak fuel enthalpies resulting from a RDA are significantly lower than previously determined by less refined methods.

The RSCS is redundant to the RWM. As long as the RWM is OPERABLE, control rod pattern errors are prevented and the RSCS is not needed. In the event the RWM is out of service, the TSs require that control rod

movement and compliance with the prescribed control rod pattern be verified by a second licensed reactor operator. This verification process is controlled procedurally to ensure high quality, independent review of control rod movement. Therefore, elimination of RSCS requirements from the TSs will not increase the consequences of an accident previously evaluated in the FSAR [Final Safety Analysis Report].

There will also be no increase in the consequences of a RDA as evaluated in the FSAR due to lowering the RWM LPSP [low power setpoint] from 30% to 20%. The effects of a RDA are more severe at low power levels and are less severe as power level increases. Although the original calculations for the RDA were performed at 10% power, to ensure conservatism, the NRC required that the generic BWR TSs be written to require that the RWM operates at any power level below 20% power. However, GE continued to perform the RDA analyses at and below 10% power because these produced more conservative analytical results. Recently more refined calculations by BNL [Brookhaven National Laboratory] have shown that even with the maximum single control rod position error, and most multiple control rod error patterns, the peak fuel rod enthalpy reached during a RDA from these control rod patterns would not exceed the NRC limit of 280 cal/gm for RDAs above 10% power, confirming the original GE analyses. Therefore, lowering our RWM LPSP from 30% to 20% will not increase the consequences of an accident previously evaluated in the FSAR.

The control rod drive scram accumulators are part of the CRD [control rod drive] system and are provided to ensure adequate control rod scram under varying conditions. The scram accumulators are needed to scram the control rods when reactor vessel pressure is low. At higher reactor pressures, vessel pressure provides the primary energy to scram the control rods. If an accumulator is inoperable at normal operating pressures [greater than] 950 psig, the associated control rod may not meet all specified scram insertion times but reactor pressure will still ensure that a scram occurs. But, because of the large number of control rods available for scram and the assumed single failure of a control rod to scram in the safety analysis, a specified amount of time (8 hours) is allowed to restore the accumulator to OPERABLE status. The 8 hours is a conservatively short period of time and is the same time allowed by the Standard Technical Specifications for inoperable accumulators. Therefore, the changes to the inoperable accumulator LCO [limiting condition for operation] will not affect the probability or consequences of a previously evaluated accident.

The purpose of control rod position indication is to ensure that pre-established control rod patterns are being followed during operation. While control rod position cannot affect the probability of an accident previously evaluated, it can affect the consequences of a RDA. The new TSs for control rod position indication, however, only provide more information which better



enables the reactor operator to determine control rod position. If a control rod's position cannot be determined by normal or alternate means, the rod is declared inoperable and the appropriate actions must be taken. Control rod patterns must still be followed and operation of the RWM is still required below the LPSP. Therefore, the changes to the control rod position requirements cannot affect the probability or consequences of the RDA or other previously evaluated accidents.

Demonstrating that all control rods are coupled reduces the probability that a RDA will occur and therefore provides protection against violation of fuel damage criteria during reactivity initiated accidents. Continued operation with an uncoupled control rod is not desirable and, therefore, recoupling must be accomplished within two hours. This period is in accordance with the Standard Technical Specifications' allowed outage times for uncoupled control rods. Coupling still must be demonstrated by the only valid indication of coupling, i.e., noting that the drive does not go to the overtravel position. The "full in" and "full out" indication was only required for operation of RSCS and does not adequately demonstrate control rod coupling. If a control rod cannot be coupled within the 2-hour period, it is declared inoperable and inserted to reduce the probability of a RDA. Therefore, the changes to the control rod coupling requirements will not affect the probability or consequences of an accident.

Although the TSs do not require that every control rod be operable, strict control over the number and distribution of inoperable rods is required to satisfy the assumptions of the safety analyses and to provide early indication of any potential generic problem in the CRD system. The organization of all inoperable rod requirements into one section better enables operators to ensure that these requirements are met. Inserting an inoperable control rod ensures that the shutdown and scram capabilities are not adversely affected. Elimination of the 5 x 5 array requirement and use of the 2 operable rod separation criteria meets the requirements of the banked position withdrawal sequence (BPWS) and therefore ensures that the control rod drop analysis remains valid. Therefore, the changes to the inoperable rod requirements will not significantly affect the probability or consequences of previously evaluated accident.

The capability to insert the control rods ensures that the assumptions for scram reactivity in the safety analyses are not violated. The changes to the stuck control rod TSs ensure that these assumptions are met by specifically requiring that SDM [shutdown margin] be verified and by clarifying existing requirements. Exercising control rods at least once every 24 hours after a stuck rod is detected is a valid means to identify a common mode failure in the CRD system. However, exercising rods because two or more are inoperable (but not stuck) is not technically warranted. Therefore, the requirement to exercise all withdrawn or partially withdrawn control rods at least once every 24 hours when two or more rods are inoperable has been deleted. The changes

to the stuck rod requirements will not significantly increase the probability or consequences of an accident.

As stated previously, the RWM cannot cause or prevent a RDA but can only limit the consequences. Verification of the correct sequence input to the RWM assures that the RWM will control rod movement so that the drop of an in-sequence rod from the fully inserted position to the position of the control rod drive would not cause the reactor to sustain a power excursion resulting in a peak fuel enthalpy in excess of 280 cal/gm. The RNWP [reduced notch worth procedure] currently in use with the RWM is an extension of BPWS [banked position withdrawal sequence] which was originally used to limit the consequences of a RDA and is still a valid rod control sequence (ref. NRC SER to Amendment 17). Therefore, use of BPWS or its equivalent RNWP cannot increase the probability or consequences of an accident previously evaluated.

The RBM [rod block monitor] provides local protection of the core i.e., the prevention of boiling transition in a local region of the core, from a single rod withdrawal error from a Limiting Control Rod Pattern. Requiring the functional test to be performed (within 24 hours of rod movement) when on RBM channel is inoperable does not affect this safety function. The RBM is demonstrated by its monthly instrument functional tests to be operable and is considered operable until proven otherwise. This is no different from other DAEC systems. If, however, one channel is inoperable, the Bases of section 3.3 clearly indicate the need to test the remaining channel for operability. Therefore, the probability or consequences of a previously evaluated accident has not significantly increased.

Monitoring for reactivity anomalies guards against large, unexpected reactivity insertions which could have the potential for damaging the reactor. During normal plant operation, reactivity anomaly monitoring is relatively straight forward. Operation at off-rated conditions, however makes it possible to operate with rod patterns significantly different from target rod patterns. Therefore, the technical specification for reactivity anomalies has been revised to allow for an investigation of the apparent anomaly. This requirement is similar to what is required by Standard Technical Specifications. Therefore, these changes cannot significantly increase the probability or consequences of a previously evaluated accident.

The various administrative changes to section 3.3 (reorganization, renumbering, etc.) only serve to clarify and better define current requirements and do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the Bases of section 3.3 only reflect the above changes to LCO and Surveillance Requirements and do not involve any increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility for an accident different from any previously evaluated because operation of the RSCS and RWM cannot cause or prevent

an accident. They function to minimize the consequences of a RDA. The RDA is already evaluated in the FSAR, and the effect of the proposed changes on this analysis is discussed in item 1 above. Elimination of the RSCS and lowering the RWM setpoint will have no impact on the operation of any other systems and cannot create the possibility for an accident to occur which has not already been evaluated.

The changes to the control rod position indication and coupling requirements cannot create a new or different kind of accident; the revised TSs will only provide more detailed information to the operators. Rod position information and coupling are still required. If these requirements cannot be met, the rods must be declared inoperable and the appropriate actions taken.

The changes to the scram accumulator requirements cannot cause a new kind of accident because the accumulators only serve to minimize the consequences of previously evaluated accidents. The function and design of the accumulators and control rods has not been changed.

The changes to the TS requirements applicable to inoperable and stuck control rod requirements cannot cause a new kind of accident; the actions required by these TSs only serve to minimize the consequences of accidents previously evaluated and assure that the assumptions of the safety analyses remain valid. No changes have been made which affect the operation of the control rods or any other system important to safety.

Use of the BPWS cannot create a new or different kind of accident because BPWS (and RNWP) only serve to limit the consequences of a RDA.

The RBM Surveillance Requirement cannot create the possibility of a different accident because the RBM system acts to prevent boiling transition in the core during single rod withdrawal errors with a Limiting Control Rod Pattern. This transient has been evaluated previously and the changes to the surveillance requirement do nothing to affect this analysis. No changes are being made which can affect other systems or create a new or different kind of accident.

The changes to the Reactivity Anomaly LCO and Surveillance Requirements cannot create a new and different kind of accident because no actual changes are being made to the plant and reactivity monitoring is still required at the specified intervals.

The various administrative changes to section 3.3 (reorganization, renumbering, etc.) only serve to clarify and better define current requirements and do not create any new or different kind of accidents.

The changes to the Bases of section 3.3 only reflect the changes to LCOs and Surveillance Requirements previously discussed and cannot create the possibility of an accident different from those previously evaluated.

3. The margin of safety will not be reduced by the elimination of RSCS. An extensive NRC study has determined that the possibility of a RDA resulting in unacceptable consequences is so low as to eliminate any need for the RSCS. The RSCS is redundant in function to the RWM; its



elimination does not affect the monitoring of control rod pattern by the RWM.

The NUMAC RWM is a state-of-the-art system and has exhibited high reliability and availability during its operating history. If, however, the RWM is out of service below 20% power, control rod movement and compliance with prescribed control rod patterns will be verified by a second licensed operator. The procedure specifically requires that a second licensed operator verify the first operator's actions while he performs rod movements. The rod movement sequences with their respective sign-off sheets are provided for verification by the second operator of each step and rod movement made by the first operator.

The margin of safety will not be reduced by lowering the RWM LPSP from 30% to 20% because calculations performed by GE and BNL have shown that even with the maximum single control rod position error and multiple error patterns, the peak fuel rod enthalpy during a RDA from these patterns would not exceed the NRC limit (290 cal/gm) above 10% power.

In summary, GE has provided technical justification for the proposed changes in Amendment 17 to GEAR II and the NRC has reviewed and accepted the GE analysis in the SE to Amendment No. 17. Therefore, there is no significant reduction in the margin of safety.

The margin of safety will not be affected by the changes to the control operability technical specifications or bases because the majority of the changes only reorganize or clarify previous requirements. The TSs still ensure that all assumptions of the safety and accident analyses are met and verified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 P.M. Copies of written comments received may be

examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 20, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change



during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jack Newman, Esquire, Kathleen H. Shea, Esquire, Newman and Holtzinger, 1615 L Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition and/or request, should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 6, 1990 as revised by letters dated August 30, 1991 and January 8, 1992, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW.,

Washington, DC 20555, and at the local public document room located at Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Dated at Rockville, Maryland, this 12th day of February 1992.

For the Nuclear Regulatory Commission,  
**Leonard N. Olshan,**  
*Acting Project Director, Project Directorate III-3, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.*  
 [FR Doc. 92-3925 Filed 2-19-92; 8:45 am]  
**BILLING CODE 7590-01-M**

[Docket Nos. 030-05980 and 030-05982;  
 License Nos. 37-00030-02 and 37-00030-08]

#### **Order Establishing Criteria and Schedule for Decommissioning the Bloomsburg Site**

In the matter of Safety Light Corporation, Lime Ridge Industries, Inc., Metreal, Inc., 4150-A Old Berwick Road, Bloomsburg, Pennsylvania 17815, United States Radium Corporation, USR Industries, Inc., USR Chemical Products, Inc., USR Metals, Inc., USR Lighting, Inc., U.S. Natural Resources, Inc., 550 Post Oak Boulevard, Suite 550, Houston, Texas 77027.

#### **I**

United States Radium Corporation (U.S. Radium), Safety Light Corporation (Safety Light), Lime Ridge Industries, Inc., Metreal, Inc., USR Industries, Inc., (USR Industries), USR Chemical Products, Inc., USR Metals, Inc., USR Lighting, Inc., and U.S. Natural Resources, Inc. (the Licensees),<sup>1</sup> as described below, hold several licenses issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30.

One of these licenses is License No. 37-00030-02 (-02 License), which the Atomic Energy Commission (AEC), the predecessor to the NRC, issued to U.S. Radium on June 20, 1956, and the NRC last amended on January 30, 1983, as corrected on March 7, 1983. The -02 License authorizes the possession of unspecified quantities of byproduct material in the form of contaminated facilities and equipment for purposes of decontamination, cleanup, and disposal of facilities and equipment previously used for research and development under the -02 License. The -02 License was due to expire by its terms on

February 29, 1984. Safety Light submitted an application (dated January 27, 1984) to renew the -02 License.

On August 5, 1969, the AEC issued a second license, License No. 37-00030-08 (-08 License), to U.S. Radium. The -08 License authorizes the Licensees to possess and use various radioactive materials, but principally tritium (H-3), for research and development, manufacture of various products containing H-3, and the distribution of those products to persons specifically licensed to possess them. The -08 License was last amended on January 8, 1987, and was due to expire by its terms on December 31, 1987. Safety Light submitted an application (dated November 23, 1987) to renew the -08 License.

Pursuant to 10 CFR 2.109 and 10 CFR 30.37, the renewal applications kept both the -02 and the -08 Licenses in effect until the Commission made a final determination with respect to each renewal application.

#### **II**

As of July 27, 1990, the Licensees were required to comply with 10 CFR 30.35 of the Commission's regulations, which requires a licensee authorized to possess certain quantities of licensed materials having certain characteristics to submit a decommissioning funding plan (DFP) or certification of financial assurance for decommissioning in the amount prescribed in 10 CFR 30.35 in accordance with criteria set forth in that section. The NRC Staff has not received the Licensees' decommissioning funding plans (DFPs) or certifications of financial assurance, as required by 10 CFR 30.35(c). Therefore, the Licensees are not in compliance with this requirement with respect to both their -02 and -08 Licenses.

The provisions of 10 CFR 30.35 are basic health and safety requirements. The NRC Staff finds that the Licensees have not demonstrated compliance with the requirements of 10 CFR 30.35, and have provided no information to assure the Staff that they will comply with these regulatory requirements in the foreseeable future. Consequently, in a separate letter issued today pursuant to 10 CFR 2.103, the Licensees' applications to renew their -02 and -08 Licenses were denied.

Although the Bloomsburg site has not been characterized completely, the record indicates that not only are buildings and equipment contaminated with strontium-90 (Sr-90), cesium-137 (Cs-137), and other radionuclides, but outdoor areas (e.g., soil, groundwater) are also contaminated at levels that

<sup>1</sup> U.S. Radium, Safety Light, and USR Industries and their subsidiaries and successors will be denoted as the Licensees throughout this order. In a separate enforcement proceeding, the Atomic Safety and Licensing Appeal Board has affirmed the NRC's jurisdiction over USR Industries, Safety Light Corporation (Bloomsburg Site Decontamination), ALAB-931, 31 NRC 350 (1990), aff'g in part LPB-90-7, 31 NRC 116 (1990).



render the site unsuitable for unrestricted release. Since 1982, Oak Ridge Associated Universities (ORAU),<sup>2</sup> Chem-Nuclear Systems, Inc. (CNSI),<sup>3</sup> and the Department of Energy's Radiological and Environmental Sciences Laboratory (RESL)<sup>4</sup> have conducted limited studies, analyzed soil and water samples from various locations on the site, or both. Most of the samples exhibit radioactive contamination, and the levels of contamination of many samples are higher than those the NRC considers acceptable for release for unrestricted use.<sup>5</sup> ORAU measured the highest concentrations found in individual samples from the site; ORAU measured 15.4 picocuries Sr-90 per gram of soil, 631 picocuries Cs-137 per gram of soil, and 62,000 picocuries Sr-90 per liter of groundwater, which are approximately 3, 42, and 7760 times the appropriate release criteria, respectively.<sup>6</sup> Despite the limited number of samples and the limited nature of studies conducted to date, the ORAU, CNSI, and RESL data show that there is widespread contamination or site which must be remediated before the site can be released for unrestricted use.

Decommissioning of the site in accordance with the requirements of 10 CFR 30.36 and the criteria given in attachments 2 and 3 to the appendix to this order will assure that the public health and safety is adequately protected from radiological hazards. However, if the Licensees fail to restrict access to the site, the radionuclide contaminants described above have the potential for posing an immediate hazard to public health and safety. Given that the Licensees' applications to renew their licenses have been denied and their commercial operations must therefore cease, there is no basis to

conclude that the Licensees will indefinitely restrict access to the site. Accordingly, the Bloomsburg site must be decommissioned, as required below, within a definite time in order to prevent the radionuclide contaminants on the site from becoming a threat to public health and safety.

The letter denying the applications to renew the -02 and -08 Licenses specifies that, if the Licensees do not request a hearing within 20 days of the date of the denial letter, the license denials become effective 50 days from the date of that letter. The denial letter further states, in part, that, on the effective date of the denials, the letter constitutes a final determination of the Commission that the -02 and -08 Licenses have expired and that the Licensees must initiate procedures, pursuant to 10 CFR 30.36 and in accordance with this order, to terminate their licenses. Until the determination is final, the Licenses continue to authorize possession and use of byproduct material at the Bloomsburg site. The Bloomsburg site is the authorized place of use under both the -02 and -08 Licenses. No other licenses issued to the Licensees authorize possession and use of NRC-licensed material at that site.<sup>7</sup> Thus, as a result of the denial of the applications to renew the -02 and -08 Licenses and as set forth above, the Licensees must decontaminate and decommission the Bloomsburg site. The public health, safety, and interest require that the Licensees decommission the Bloomsburg site such that it can be released for unrestricted use, using NRC's current criteria, and that decommissioning be completed expeditiously. Accordingly, I find that the public health, safety, and interest require that these requirements be made effective upon the effective date of the denial of the applications to renew the -02 and -08 Licenses.

### III

In view of the foregoing and pursuant to sections 81, 161b, 161c, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2111, 2232 and 2236), and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered*, That:

With regard to the Bloomsburg site (described in attachment 1 to this order), the Licensees, jointly and severally, shall, upon effectiveness of the denials of the -02 and -08 license renewal applications, be subject to the requirements of 10 CFR 30.36 and shall satisfy those requirements in accordance with the criteria set forth in attachments 2 and 3 to this Order and the schedule set forth in attachment 4 to this order.

The Director, Office of Nuclear Material Safety and Safeguards, or his designee, may relax or rescind the above conditions upon the Licensees' showing, in writing and under oath or affirmation, of good cause.

### IV

The Licensees must, and any other person adversely affected by this order may, submit an answer to the order, and may request a hearing on this order, within 20 days of the date of this order. Unless the Licensees consent to this order, the answer shall specifically admit or deny each allegation or charge made in this order and shall set forth the matters of fact and law on which the Licensees or other person adversely affected relies and the reasons why this order should not have been issued. Any answer filed within 20 days of the date of this order may include a request for a hearing. Any answer or request for a hearing shall be submitted to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Attn: Document Control Desk, Washington, DC 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region I, U.S. Nuclear Regulatory Commission, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensees if the answer or hearing request is by a person other than the Licensees. If a person other than the Licensees requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this order and should address the criteria set forth in 10 CFR 2.714(d).

If the Licensees or a person whose interest is adversely affected requests a hearing, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the

<sup>2</sup> "Environmental Survey of the Safety Light Corporation, Bloomsburg, Pennsylvania," J. D. Berger, Oak Ridge Associated Universities, dated July 1982.

<sup>3</sup> "Soil Core/Monitoring Well Installation program and Hydrogeological/Radiological Evaluation of the Safety Light Facility, Bloomsburg, Pennsylvania," Chem-Nuclear Systems, Inc., dated October 11, 1990.

<sup>4</sup> "August 1990 NRC Samples Analyzed by DOE Radiological and Environmental Sciences Laboratory," attachment 4 to NRC Report on Inspection Conducted January 22-23, 1991 and transmitted by letter dated March 11, 1991.

<sup>5</sup> See attachments 2 and 3 to the appendix to this order.

<sup>6</sup> Although the NRC does not have regulatory authority over radium-226 (Ra-226) in this case, ORAU also identified Ra-226 contamination on the Bloomsburg site. ORAU measured maximum concentrations of 9.1 picocuries per liter of groundwater and 672 picocuries per gram of soil, values that are, respectively, about 1.8 and 130 times those the NRC considers acceptable for release for unrestricted use.

<sup>7</sup> The AEC issued three other licenses to U.S. Radium, including License No. 37-00030-10G (-10G License), issued on May 16, 1982; License No. 37-00030-07E (-07E License), issued on April 16, 1965, and terminated on October 10, 1991; and License No. 37-00030-09G (-09G License), issued on January 13, 1966. The -09G and -10G Licenses authorize distribution of specified products containing H-3 to persons generally licensed pursuant to 10 CFR 31.5 and 31.7, respectively, of NRC's regulations or equivalent provisions of the regulations of any Agreement State. The -07E License authorized distribution of specified products containing H-3 to persons exempt from licensing, pursuant to 10 CFR 30.15 or equivalent provisions of the regulations of any Agreement State. These three licenses do not authorize possession or use of licensed material; and the -08 License authorizes the possession and use of the products specified in the -07E, -09G, and -10G Licenses. Neither the denial of the renewal applications for the -02 and -08 Licenses nor this Order directly affects these other three licenses.



issue to be considered at such a hearing is whether this order should be sustained.

V

In the absence of any request for hearing, this order shall be final 20 days from the date of this order without further order or proceedings.

Dated at Rockville, Maryland this 7th day of February 1992.

For the Nuclear Regulatory Commission,  
**Robert M. Bernero,**  
*Director, Office of Nuclear Material Safety and Safeguards.*

#### Appendix

The Nuclear Regulatory Commission (NRC or Commission) Staff has denied the Licensees' applications to renew License Nos. 37-00030-02 and 37-00030-08. As required by 10 CFR 30.36, it is necessary for the Licensees to divest themselves of licensed material

(e.g., by transfer to an authorized recipient); to decontaminate their equipment, facilities, and real property; and to submit a survey showing that their equipment, facilities, and real property are suitable for release for unrestricted use. A sketch showing pertinent features of the Licensees' authorized place of use, 4150-A Old Berwick Road, Bloomsburg, Pennsylvania (the Bloomsburg site), is found in attachment 1, which is Figure 14 of Chem-Nuclear Systems, Inc.'s (CNSI's) report entitled, "Soil Coring/Monitoring Well Installation Program and Hydrogeological/Radiological Evaluation of the Safety Light Facility, Bloomsburg, Pennsylvania," dated October 11, 1990.

Current limits for unrestricted use are found in attachments 2 and 3, "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source or Special Nuclear Material," dated July 1982, and "Current Guidelines on Acceptable Levels of Contamination in Soil and Groundwater on Property to be Released

for Unrestricted Use," dated January 1992, respectively.

Attachment 4 is a schedule for compliance with the requirements in 10 CFR 30.36 and is intended to provide for prompt but orderly termination of the Licensees' licenses. The buildings referenced in the schedule are those shown in attachment 1. Certain specific categories of materials requiring disposal are listed in the schedule and are those described at Tab 3(c) of Safety Light Corporation's January 11, 1991, letter to NRC.

Note that section III of the attached Order provides a mechanism whereby, upon the Licensees' showing of good cause, the conditions of the order may be relaxed or rescinded.

#### Attachments:

1. Figure 14 from CNSI Report dtd 10/11/90;
2. Guidelines for Decontamination of Facilities;
3. Current Guidelines on Acceptable Levels of Contamination in Soil and Water;
4. Schedule for Compliance.

BILLING CODE 7590-01-M







### Attachment 2—Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material

U.S. Nuclear Regulatory Commission,  
Division of Fuel Cycle and Material Safety,  
Washington, DC 20555.

July 1982.

The instructions in this guide, in conjunction with Table 1, specify the radionuclides and radiation exposure rate limits which should be used in decontamination and survey of surfaces or premises and equipment prior to abandonment or release for unrestricted use. The limits in Table 1 do not apply to premises, equipment, or scrap containing induced radioactivity for which the radiological considerations pertinent to their use may be different. The release of such facilities or items from regulatory control is considered on a case-by-case basis.

1. The licensee shall make a reasonable effort to eliminate residual contamination.
2. Radioactivity on equipment or surfaces shall not be covered by paint, plating, or other covering material unless contamination levels, as determined by a survey and documented, are below the limits specified in Table 1 prior to the application of the

covering. A reasonable effort must be made to minimize the contamination prior to use of any covering.

3. The radioactivity on the interior surfaces of pipes, drain lines, or ductwork shall be determined by making measurements at all traps, and other appropriate access points, provided that contamination at these locations is likely to be representative of contamination on the interior of the pipes, drain lines, or ductwork. Surfaces of premises, equipment, or scrap which are likely to be contaminated but are of such size, construction, or location as to make the surface inaccessible for purposes of measurement shall be presumed to be contaminated in excess of the limits.

4. Upon request, the Commission may authorize a licensee to relinquish possession or control of premises, equipment, or scrap having surfaces contaminated with materials in excess of the limits specified. This may include, but would not be limited to, special circumstances such as razing of buildings, transfer of premises to another organization continuing work with radioactive materials, or conversion of facilities to a long-term storage or standby status. Such requests must:

- a. Provide detailed, specific information describing the premises, equipment or scrap, radioactive contaminants, and the nature,

extent, and degree of residual surface contamination.

b. Provide a detailed health and safety analysis which reflects that the residual amounts of materials on surface areas, together with other considerations such as prospective use of the premises, equipment or scrap, are unlikely to result in an unreasonable risk to the health and safety of the public.

5. Prior to release of premises for unrestricted use, the licensee shall make a comprehensive radiation survey which establishes that contamination is within the limits specified in Table 1. A copy of the survey report shall be filed with the Division of Fuel Cycle and Material Safety, USNRC, Washington, D.C. 20555, and also the Administrator of the NRC Regional Office having jurisdiction. The report should be filed at least 30 days prior to the planned date of abandonment. The survey report shall:

- a. Identify the premises.
- b. Show that reasonable effort has been made to eliminate residual contamination.
- c. Describe the scope of the survey and general procedures followed.
- d. State the findings of the survey in units specified in the instruction.

Following review of the report, the NRC will consider visiting the facilities to confirm the survey.

### ACCEPTABLE SURFACE CONTAMINATION LEVELS

Nuclides <sup>a</sup>	Average <sup>b,c,f</sup>	Maximum <sup>b,d,f</sup>	Removable <sup>b,e,f</sup>
U-nat, U-235, U-238, and associated decay products.	5,000 dpm a/100 cm <sup>2</sup> .....	15,000 dpm a/100 cm <sup>2</sup> .....	1,000 dpm a/100 cm <sup>2</sup> .
Transuranics, Ra-226, Ra-228, Th-230, Th-232, Pa-231, Ac-227, I-125, I-129.	100 dpm/100 cm <sup>2</sup> .....	300 dpm/100 cm <sup>2</sup> .....	20 dpm/100 cm <sup>2</sup> .
Th-nat, Th-232, Sr-90, Ra-223, Ra-224, U-232, I-126, I-131, I-133.	1000 dpm/100 cm <sup>2</sup> .....	3000 dpm/100 cm <sup>2</sup> .....	200 dpm/100 cm <sup>2</sup> .
Beta-gamma emitters (nuclides with decay modes other than alpha emission or spontaneous fission) except Sr-90 and others noted above.	5000 dpm <sup>be</sup> /100 cm <sup>2</sup> .....	15,000 dpm <sup>be</sup> /100 cm <sup>2</sup> .....	1000 dpm <sup>be</sup> /100 cm <sup>2</sup> .

<sup>a</sup> Where surface contamination by both alpha- and beta-gamma-emitting nuclides exists, the limits established for alpha- and beta-gamma emitting nuclides should apply independently.

<sup>b</sup> As used in this table, dpm (disintegrations per minute) means the rate of emission by radioactive materials as determined by correcting the counts per minute observed by an appropriate detector for background, efficiency, and geometric factors associated with the instrumentation.

<sup>c</sup> Measurements of average contaminant should not be averaged over more than 1 square meter. For objects of less surface area, the average should be derived for each such object.

<sup>d</sup> The maximum contamination level applies to an area of not more than 100 cm<sup>2</sup>.

<sup>e</sup> The amount of removable radioactive material per 100 cm<sup>2</sup> of surface area should be determined by wiping that area with dry filter or soft absorbent paper, applying moderate pressure, and assessing the amount of radioactive material on the wipe with an appropriate instrument known efficiency. When removable contamination on objects of less surface area is determined, the pertinent levels should be reduced proportionally and the entire surface should be wiped.

<sup>f</sup> The average and maximum radiation levels associated with surface contamination resulting from beta-gamma emitters should not exceed 0.2 mrad/hr at 1 cm and 1.0 mrad/hr at 1 cm, respectively, measured through not more than 7 milligrams per square centimeter of total absorber.

### Attachment 3—Current Guidelines on Acceptable Levels of Contamination in Soil and Groundwater on Property To Be Released for Unrestricted Use

January 1992.

Attachment 2 specifies current criteria for decontamination of buildings and equipment before they are released for unrestricted use, but does not address limits for soil and groundwater contamination. On a case-by-case basis, the Staff has developed or provided such criteria for release of property whose soil, groundwater, or both show

evidence of radioactive contamination. These criteria are listed below:

#### MAXIMUM SOIL CONCENTRATION<sup>1</sup>

[In picocuries per gram]

Radionuclide	Gram
Hydrogen-3.....	( <sup>2</sup> )
Cobalt-60.....	8
Strontium-90.....	5
Cesium-137.....	15
Plutonium-238, -239 (if found).....	25
Americium-241 (if found).....	30
Radium-226.....	5
Radium-228.....	5

<sup>1</sup> If only one radionuclide is present, then the maximum concentration is the value listed in the table. However, if more than one radionuclide is present, determine for each radionuclide the ratio between the measured concentration (e.g., in site soil or groundwater) and the concentration listed in the appropriate table above for the specific radionuclide when not in combination. The sum of such ratios may not exceed one (i.e., unity).

<sup>2</sup> There is no limit for tritium (H-3) in soil. The critical pathway is the leaching of H-3 in soil into the groundwater, which is used for drinking water. In this case, the appropriate criterion is 20,000 picocuries per liter. When H-3 use has ceased, the bulk of H-3 waste has been disposed of, and a decision must be made about release of the site for unrestricted use, and licensees should estimate the total amount of H-3 remaining on the site.



MAXIMUM GROUNDWATER CONCENTRATION <sup>1</sup> [In picocuries per liter]		MAXIMUM GROUNDWATER CONCENTRATION <sup>1</sup> —Continued [In picocuries per liter]	
Radionuclide	Liter	Radionuclide	Liter
Hydrogen-3.....	20,000	Radium-226, 228.....	5
Cobalt-60.....	100		
Strontium-90.....	8		
Cesium-137.....	200		
Gross alpha including radium-226.....	15		

<sup>1</sup> If only one radionuclide is present, then the maximum concentration is the value listed in the table. However, if more than one radionuclide is present, determine for each radionuclide the ratio

between the measured concentration (e.g., in site soil or groundwater) and the concentration listed in the appropriate table above for the specific radionuclide when not in combination. The sum of such ratios may not exceed one (i.e., unity).

<sup>2</sup> U.S. Environmental Protection Agency, Office of Water Supply, "National Interim Primary Drinking Water Regulations," EPA-570/9-76-003 (1976).

## ATTACHMENT 41.—SCHEDULE FOR COMPLIANCE

Provision	Regulation	Requirements for -02 license	Requirements for -08 license
Termination of use.....	10 CFR 30.36(c)(1)(i).....	Not applicable (In 1968 US Radium Corp. discontinued use for purposes other than "decontamination, cleanup, and disposal"; current -02 license only authorizes "decontamination, cleanup, and disposal * * *").	On the effective date of the denial of the -08 License, use is limited to actions related to: (1) Transfer of licensed material to authorized recipients (e.g., supplier, customers, waste broker, waste burial site) and (2) decommissioning. Receipt of licensed material is not authorized.
Decontamination.....	10 CFR 30.36(c)(1)(iii), (c)(2) and (c)(3).	Within 120 days of the effective date of the denial of the -02 License, submit decommissioning plan and implement decommissioning in accordance with (IAW) NRC-approved plan. With respect to the Main Process Building, complete decommissioning within 1 year of the effective date of the denial of the -02 License. With respect to facilities and equipment in buildings other than the Main Process, Liquid Waste Hold-Up and Solid Waste Buildings, complete decommissioning within 2 years of the effective date of the denial of the -02 License. With respect to the Liquid Waste Hold-Up and Solid Waste Buildings and to the real property on both the Safety Light site and the parcel known as the "Vance-Walton" property, complete decommissioning within 3 years of the effective date of the denial of the -02 License.	Within 120 days of the effective date of the denial of the -08 License, submit decommissioning plan and implement decommissioning IAW NRC-approved plan. With respect to the Main Process Building, complete decommissioning within 1 year of the effective date of the denial of the -08 License.  With respect to the Liquid Waste Hold-Up and Solid Waste Buildings, complete decommissioning within 3 years of the effective date of the denial of the -08 License.
Disposal.....	10 CFR 30.36(c)(1)(iii).....	Within 180 days of the effective date of the denial of the -02 License, dispose of krypton-85 self-luminous reference sources, "aircraft items" made of depleted uranium, two cans marked "Sr-90" and cans of depleted uranium metal turnings.  Within 3 years of the effective date of the denial of the -02 License, dispose of all reference sources and all wastes, including those generated during site decommissioning.	Dispose of: (1) Inventory of tritium gas within 30 days of the effective date of the denial of the -08 License; (2) sealed sources, foils, targets, and markers within 60 days of the effective date of the denial of the -08 License Order; (3) returned aircraft signs within 180 days of the effective date of the denial of the -08 License; (4) "old reusable" signs and waste in Solid Waste Building within 1 year of the effective date of the denial of the -08 License.  Within 3 years of the effective date of the denial of the -08 License, dispose of all waste, including that generated in the decommissioning of the Liquid Waste Hold-Up and Solid Waste Storage Buildings.
NRC Form-314.....	10 CFR 30.36(c)(1)(iv).....	Within 3 years of the effective date of the denial of the -02 License, submit completed NRC Form-314.	Within 3 years of the effective date of the denial of the -08 License, submit completed NRC Form-314.
Survey.....	10 CFR 30.36(c)(1)(v) and 10 CFR 30.36(c)(3).	Within 3 years of the effective date of the denial of the -02 License, submit survey demonstrating premises are suitable for unrestricted use.	Within 3 years of the effective date of the denial of the -08 License, submit survey demonstrating premises are suitable for unrestricted use.

[FR Doc. 92-3492 Filed 2-19-92; 8:45 am]

BILLING CODE 7590-01-M

**St. Joseph's Hospital and Medical Center Paterson, NJ; Confirmatory Order Modifying License (Effective Immediately)**

[Docket No. 030-02526; License No. 29-10191-02; EA 92-013]

I

St. Joseph's Hospital and Medical Center (Licensee) is the holder of NRC Byproduct Material License No. 29-

10191-02 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 30. The License authorizes the Licensee to use certain byproduct materials for certain diagnostic and therapeutic medical purposes, including for use in a Nucletron Corporation Microselectron-High Dose Rate (HDR) remote afterloading brachytherapy unit for the treatment of humans. The License was issued on January 2, 1970, has been



renewed on several occasions since that date, and had an expiration date of July 31, 1991. The License remains in effect, pursuant to 10 CFR 30.37(b), since the Licensee has submitted, prior to the expiration date, a timely request to renew the License.

## II

On January 24, 25 and 28, 1991, and NRC inspection was conducted at the Licensee's facility in Paterson, New Jersey to review the Licensee's use of the HDR unit. On January 23, 1991, the day prior to the initiation of the NRC inspection, NRC Region I staff were involved in two telephone conversations with Thomas M. Herskovic, M.D. (Dr. Herskovic), the then Chairman of the Radiation Safety Committee (RSC), concerning possible movement and use of that HDR unit. Dr. Herskovic had been assigned additional duties as Acting Radiation Safety Officer (RSO) in December 1990 when the former RSO left the facility. As a result of concerns regarding the completeness and accuracy of the information provided by the Dr. Herskovic during those telephone conversations, an investigation was initiated by the NRC Office of Investigations to review this matter.

## III

During the NRC inspection and investigation of this matter, several violations of NRC requirements were identified. The violations included, but were not limited to: (1) The unauthorized movement of the HDR unit from the cobalt room to the radium storage room on two occasions, and the unauthorized movement of the HDR unit to the linear accelerator room where the HDR unit was used to treat patients on 18 occasions, in careless disregard of NRC requirements; (2) the failure, while the unit was used in the linear accelerator room to treat patients, to have interlocks installed on the door to that new location, thereby creating the possibility that someone could enter the room with the source exposed and not retracting to its shielded position; and (3) the deliberate failure by the then Chairman of the RSC to provide complete and accurate information to the NRC during the two telephone conversations with the NRC on January 23, 1991 relative to the movement and use of the HDR unit.

As a result of those findings, a Notice of Violation and Proposed Imposition of Civil Penalties in the amount of \$10,250 was issued to the Licensee on December 3, 1991. In addition, and Order Modifying License and a Demand for

Information were also issued on that date which (1) modified License No. 29-10191-02 for a period of the three years from the date of that order such that Dr. Herskovic may not be appointed or act as the RSO or serve on the Radiation Safety Committee; and (2) required the Licensee to provide to the NRC is writing, under oath or affirmation, an explanation as to why Dr. Herskovic should not also be precluded from any involvement in NRC licensed activities for a period of three years, including acting as an authorized user or under the supervision of an authorized user.

## IV

In a letter dated December 27, 1991, the Licensee responded to the Civil Penalty, Order, and Demand for Information referenced in Section III above. With respect to the civil penalty, the Licensee paid the penalty, described the cause of the violations, and provided its corrective actions.

With respect to the Order Modifying License, the Licensee indicated that Dr. Herskovic has been replaced as the RSO, has stepped down as the RSC Chairman, and is not longer a voting member of the RSC (although he will remain on the committee as an ex-officio member to ensure that he stays informed of all changes and developments pertinent to the safe use of licensed materials and the Licensee's commitment to the conditions of the License).

With respect to the Demand for Information, the Licensee provided numerous reasons why it believes that Dr. Herskovic should not be precluded from acting as an authorized user or under the supervision of an authorized user. These reasons included his having practiced as a Radiotherapist for 17 years without question of his skills, ability, and integrity; his recognition in the medical community as a dedicated, skilled physician, as evidenced by the continued high number of patient referrals to his service; that he is an essential component of the Licensee's oncology program; the fact that removal of Dr. Herskovic would have a significant impact on the Licensee's ability to serve its patient population, especially the poor, and would compromise a significant portion of the Licensee's cancer treatment program; and that a series of checks and balances have been put in place to prevent these problems from occurring again. In particular, the Licensee described several steps that in licensed activities to ensure full compliance. Specifically, the Licensee stated the following:

1. Dr. Herskovic has agreed to take a

tutorial designed to prepare health professionals to meet regulatory requirements of the NRC, and use licensed materials safely. Dr. Herskovic wishes to improve his proficiency and acquire an adequate level of knowledge so as to reestablish his competency in the field of radiation safety.

2. Dr. Herskovic's role in the treatment of the patients will be limited to clinical activities. Dr. Herskovic will always be accompanied by a physicist staff member while he handles radioactive materials. In the event that the radioactive sources have to be transferred from the Radioactive Safety Room to the operating room or to a patient's room, the physicist staff will carry the sources and will assist in the loading, unloading and transfer of the radioactive sources. Dr. Herskovic will not load or unload the sources from a patient unless accompanied by a physicist staff member.

3. In case of emergency during the implant of radioactive materials in a patient, the nursing staff are informed and trained to contact the R.S.O. However, if there is a need for Dr. Herskovic to remove the sources from the patient, he will place the sources into the porta-pig radioactive source transfer cart that is left in the patient room during implant procedures. After the removal of the sources, Dr. Herskovic will contact the R.S.O. or his designee. The physicist staff will be called immediately for the completion of the survey, inventory of the sources and for the transfer of the sources to the safe.

4. Neither Dr. Herskovic nor any of the physicians will have the key to the Radioactive Safe Room. The key is issued only to the Physicist staff and to the chief technologist (for emergencies only). The hospital security has been instructed not to open the Radioactive Safe Room for any personnel other than approved physicist staff and the Radiation Therapy Chief Technologist.

## V

The NRC staff has reviewed the Licensee's submittal, dated December 27, 1991, and concluded that implementation of commitments described in the Licensee's submittal would provide enhanced assurance that licensed activities by Dr. Herskovic would be performed in accordance with requirements, and that any information provided to the NRC concerning those activities would be complete and accurate. The staff has also concluded that these commitments are sufficient to protect public health and safety so that



it is not necessary to completely preclude Dr. Herskovic's involvement in licensed activities. As a result, I find that the Licensee's commitments set forth in its December 27, 1991 letter, as restated in Section IV of this Confirmatory Order, are acceptable and necessary, and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that the Licensee's commitments be confirmed by this Order. The Licensee has agreed to this action in a telephone call on February 5, 1992 between Dr. Ron Bellamy of Region I and Mr. Eugene Mortensen, the Chief Operating Officer. Pursuant to 10 CFR 2.202, I have also determined that the public health and safety require that this Order be immediately effective.

#### VI

Accordingly, pursuant to Sections 84, 161b, 161i, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 35, *It is hereby Ordered, Effective Immediately*, That license No. 29-10191-02 is modified, for a period of three years from the date of this order, as follows:

1. Dr. Herskovic will take a tutorial designed to prepare health professionals to meet regulatory requirements of the NRC and use licensed materials safely.

2. Dr. Herskovic's role in the treatment of patients will be limited to clinical activities. Dr. Herskovic will always be accompanied by a physicist staff member while handling radioactive materials. If the radioactive sources must be transferred from the Radioactive Safe Room to the operating room or to a patient's room, the physicist staff member will carry the sources and assist in the loading, unloading and transfer of the radioactive sources. Dr. Herskovic will not load or unload the sources from a patient unless accompanied by a physicist staff member.

3. In case of emergency during the implant of radioactive materials in a patient, the nursing staff will be informed and trained to contact the R.S.O. However, if there is a need for Dr. Herskovic to remove the sources from the patient, he will place the sources in the portapig radioactive source transfer cart that is to be left in the patient room during implant procedures. After the removal of the sources, Dr. Herskovic will contact the R.S.O. or his designee. The physicist staff will be called immediately for the completion of the survey, inventory of the sources, and for the transfer of the sources to the safe.

4. Neither Dr. Herskovic nor any of the physicians will have the key to the Radioactive Safe Room. The key will be issued only to the Physicist staff and to the chief technologist (for emergencies only). The hospital security will not open the Radioactive Safe Room for any personnel other than approved physicist staff and the Radiation Therapy Chief Technologist.

The Regional Administrator, Region I, may relax or rescind, in writing, any of the above conditions upon a showing by the Licensee of good cause.

#### VII

Dr. Herskovic and any person other than the Licensee adversely affected by this Confirmatory Order may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, and to the Licensee. If such a person other than Dr. Herskovic requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Dr. Herskovic or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at the hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 10th day of February 1992.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 92-3926 Filed 2-19-92; 8:45 am]

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#### RESOLUTION TRUST CORPORATION

##### Real Property Disposal; Statement of Policy on Sale of Real Estate Property and Establishing Prices in Auction Sales

AGENCY: Resolution Trust Corporation.

ACTION: Policy statement.

**SUMMARY:** Notice is hereby given that on March 26, 1991, the Board of Directors of the Resolution Trust Corporation approved a general policy on the sale of real estate properties. The policy requires RTC to actively market all real estate property for sale. Marketing would be managed by qualified brokers, auction firms, or other qualified professionals to ensure adequate exposure takes place. Furthermore, the policy recognizes RTC's role as a seller of assets and given that clear mandate, believes that the market value of any real estate asset is best established by the highest price, adjusted in terms of cash, a buyer is willing to pay after a professionally managed marketing program has taken place.

Notice also is hereby given that on February 11, 1992, the Resolution Trust Corporation (RTC) ratified a policy statement for establishing prices in auction sales. The policy statement specifically allows the RTC to sell properties absolute at auctions if the property has an established market value less than \$1,000,000 and if the property has been widely exposed to the market. All other properties may be sold at auctions with reserve prices as specified in the policy statement. While the policy statement for establishing prices in auction sales applies generally to properties sold by auction, the pricing flexibility allowed under the general policy on the sale of real estate may be used for auctions if necessary to set appropriate reserve prices below the minimum reserve prices allowed under the auction pricing policy. Thus, for auctions, the pricing policy that yields the greatest flexibility may be used.

The RTC is publishing this policy statement to help ensure public awareness and accurate understanding of this policy. This policy statement is designed for the RTC's internal operations and not for regulatory purposes.

**EFFECTIVE DATES:** The Policy on Sale of Real Estate Property was effective March 26, 1991. The Policy on Establishing Prices in Auction Sales was effective April 10, 1991.

**FOR FURTHER INFORMATION CONTACT:** David R. Wiley, Senior Asset Specialist, Asset Management, (202) 416-7136.



**SUPPLEMENTARY INFORMATION:** In May 1990, the RTC Board of Directors approved a statement of policy on determining market value of assets and establishing prices for auction sales for properties sold in auction. This policy statement was published in the June 1, 1990 edition of the *Federal Register* [55 FR 22423]. Included in this policy was the statement "[p]roperty in conservatorship which satisfies the eligibility requirements for RTC's Affordable Housing Program may not be sold at auction." This statement appeared in the context of properties with an established market value of \$100,000 or less, and was intended by RTC to prevent disposing of conservatorship single family (i.e., 1-to-4 family residential) property in an absolute auction. The language, however, does not make it clear that its application is limited to that situation.

On March 26, 1991, the RTC's general real estate pricing policy was revised by the RTC Board of Directors, but was not published in the *Federal Register* at that time. That policy related primarily to the pricing and selling of real estate properties not in the context of auctions. Also in March 1991, the RTC Funding Act of 1991 was enacted, placing eligible single family properties held by conservatorships in the Affordable Housing Disposition Program, and permitting single family properties to be sold through the Program without regard to a minimum disposition price through the end of Fiscal Year 1991.

Subsequently, the RTC issued Circular 10150.4, "Guidelines for Selling Single Family Properties Under the Affordable Housing Disposition Program." Dated April 10, 1991, and the Board of Directors approved temporary amendments to the Affordable Housing Regulations (12 CFR 1609) to reflect the statutory changes. Both documents made it clear that, consistent with the legislation, eligible single family conservatorship and receivership properties could be sold in auctions, including absolute auctions.

In August 1991, RTC Circular 10100.19, "Sale of Real Estate Policy," was issued. While the emphasis of this directive was to provide guidelines for the implementation of the March 26, 1991 real estate pricing and sales policy, a revised version of the RTC's auction policy appeared as Attachment B to that directive. In light of the legislative changes, reflected in Circular 10150.4 and the Board-approved temporary regulations, the statement quoted above concerning the prohibition on auctioning conservatorship properties was deleted from Attachment B. The modification

was made because the sentence was not consistent with RTC's policy that conservatorship single family properties satisfying the eligibility requirements of the RTC's Affordable Housing Disposition Program may be sold in auction pursuant to the guidelines established in Circular 10150.4 (Also, some non-substantive language changes were made in the Attachment B policy statement to be consistent with the RTC's March 26, 1991 policy on pricing and selling real estate.) These changes to the May 1990 policy statement were not specifically presented to the RTC Board of Directors, not was the revised auction policy published in the *Federal Register*.

On February 11, 1992, the Executive Committee of the Resolution Trust Corporation ratified the changes made to the May 1990 auction policy in the form entitled "Establishing Prices in Auction Sales" that appears as Attachment B to RTC Circular 10100.19, "Sale of Real Estate Policy", dated August 13, 1991. The ratification makes it clear that the RTC's auction policy is consistent with RTC's guidelines for allowing conservatorship-owned single family properties to be sold through auctions. The ratification also makes it clear that conservatorship-owned multifamily property may be sold in auction outside of the Affordable Housing Disposition Program.

The text of the RTC's general policy on the sale of real estate property and establishing prices in auction sales follows:

#### **Policy on Sale of Real Estate Property**

It is the policy of the Resolution Trust Corporation to actively market for sale owned real estate property prior to accepting a purchase offer. In marketing the property, the RTC will rely upon established real estate brokers, auction firms, or otherwise qualified professionals to insure properties are adequately exposed to the marketplace and sold at market values. Methods of exposure to the marketplace will include advertising in local, regional, or national media, multiple listing services, RTC published inventory distribution vehicles, and/or similarly appropriate marketing techniques. To facilitate sales, RTC will finance transactions according to published underwriting guidelines as approved by the RTC Board of Directors.

Excepting as authorized by RTC's Board of Directors, all properties over \$50,000 will be individually appraised to help determine market value. Because the appraisal process should not be regarded as the ultimate determinant of market value, particularly for those

properties which are troubled, located in distressed markets or rapidly changing markets, the RTC will also draw upon the opinions of real estate brokers and/or other knowledgeable professionals in setting appropriate sales prices.

It is the policy of the RTC that the interests of the Corporation are best served by transferring and selling real estate assets to the private sector as expeditiously as possible. In so doing, it is the Corporation's belief that the market value of any real estate asset is best determined by the highest price, adjusted in terms of cash, a buyer is willing to pay after a professionally managed marketing program has taken place. Thus, by implementing an effective marketing campaign, RTC ensures market values are always obtained.

The Board of Directors of the Resolution Trust Corporation has delegated authority for the implementation of this policy to RTC staff, RTC Asset Managers, and conservatorship personnel.

#### **Establishing Prices in Auction Sales**

##### *I. Introduction*

Auctions offer an excellent method for effectively disposing of real estate properties, especially useful for an organization with the scale of disposition activity of the RTC. The theory behind auctions is that if marketed correctly, the properties will be exposed to many potential purchasers (far more than would be possible for each property when marketed individually) and that an early sale will enable the RTC to forego actual holding costs and opportunity costs. There are three general methods for conducting auctions:

- Selling properties absolute, that is, to the highest bidder without regard to a minimum price;
- Selling properties absolute with minimum bid absolute prices, that is, to the highest bidder as long as the final bid price is greater than a pre-determined price established for the asset; and
- Selling prices with the right of reserve to accept or reject any offer.

While the last method results in the greatest protection to the seller, it is a general belief that selling properties absolute will generate the greatest interest among potential investors, since they know that the seller is obligated to sell the properties, and hence result in attaining market value. Similarly, setting minimum prices high, rather than low, discourages participation and thus reduces actual bidding.



The RTC will explore conducting auctions on specified properties as an alternative to marketing properties through local, regional, or national brokers. Well conducted auctions can approximate the sales prices obtained by other methods of sales, in aggregate, if not on each property. Key characteristics of successful auctions are:

- Large scale, national or international marketing of the properties so that the auction brings even greater market exposure than would normally be attained through a normal listing arrangement;
- Accurate, sufficient information on each of the properties available to potential purchasers; and
- Ample time and opportunity for prospective bidders to inspect the property and property records.

Well conducted auctions with extensive marketing, and which enable the RTC to reduce its actual and opportunity costs of money, are consistent with the RTC's mandated objectives of: 1) maximizing the net present value return from the sale of assets; and 2) minimizing the impact of such transactions on local real estate and financial markets.

The pricing policies for auctions stated below are believed to maximize the net present value return for the RTC.

## II. Policy

The following policy shall be followed by RTC staff and private sector contractors for establishing prices in auctions:

(1) Auctions will require extensive marketing efforts with large scale regional, national, and possibly international exposure. Minimum marketing efforts will include extensive advertising in newspapers and appropriate trade journals, publication and distribution of brochures, press releases and solicitations to prospects in RTC's data base of potential buyers.

(2) Properties may be sold absolute in auctions if (i) the property has an established market value below \$100,000; and (ii) the property has been widely exposed to the market. The RTC will reserve the right to reject any and all offers which are made in the absence of a competitive bidding environment.

(3) All other properties may be sold at auctions with reserve prices set at levels to take into account the benefits of an expedited sale, including savings of holding costs, and marketing costs. Furthermore, to stimulate active bidding associated with the auction process, RTC may set reserve prices at less than the expected sale price excepting under no circumstances can reserve prices be

set at less than 70 percent of the current appraised value, adjusted for any savings of sales expenses or costs as a result of an expedited sale.

## III. Conclusion

The auction pricing policy outlined above gives the RTC reasonable flexibility when conducting auctions on real estate properties. If an auction exposes property to the market sufficiently and is otherwise properly conducted, disposition prices will establish the market value.

It is thus expected that, in aggregate, RTC will have as high a net present value return from auction sales as from individual sales under existing policy. The sale prices on individual properties may vary up or down from that standard. The 70 percent reserve price floor for the larger properties has been established to meet the needs of the expected properties which may sell below established appraised value. A higher reserve figure would discourage participation and probably reduce aggregate net present value yield.

By order of the Executive Committee of the Resolution Trust Corporation.

Dated at Washington, DC, this 11th day of February, 1992.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 92-3918 Filed 2-19-92; 8:45 am]

BILLING CODE 6714-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. IA-1299]

### Notice of Intention To Cancel Registrations of Certain Investment Advisers

February 12, 1992.

Notice is given that the Securities and Exchange Commission (the "Commission") intends to issue an order, pursuant to section 203(h) of the Investment Advisers Act of 1940 (the "Act"), cancelling the registrations of those investment advisers identified in the attached appendix.

Section 203(h) of the Act provides, in pertinent part, that if the Commission finds that any person registered under section 203, or who has pending an application for registration filed under that section, is not engaged in business as an investment adviser, the Commission shall by order cancel the registration of such person. Subject to certain exceptions, section 202(a)(11) of the Act defines an investment adviser as any person who, for compensation,

engages in the business of advising others as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, as part of a regular business, issues or promulgates analyses or reports concerning securities.

It has come to the Commission's attention that some persons and entities that are registered as investment advisers under section 203 of the Act are not actually engaged in business as investment advisers because they do not give advice about securities but instead manage real property for their clients and maintain custody of their clients' funds. Such persons and entities may have registered as investment advisers under section 203 of the Act solely to qualify as "investment managers" under the Employee Retirement Income Security Act of 1974 ("ERISA").<sup>1</sup> Accordingly, there are reasonable grounds to find that these registrants are not engaged in business as investment advisers.

Notice also is given that any interested person may, by March 16, 1992, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reason for such request, and the issues, if any, of law or fact proposed to be controverted, and he or she may request to be notified if the Commission should order a hearing thereon. Any such communication should be addressed to Secretary, Securities and Exchange Commission, Washington, DC 20549.

At any time after March 16, 1992, the Commission may issue an order cancelling any or all of the investment adviser registration listed in the Appendix, upon the basis of the information stated above, unless an order for hearing on the cancellation shall be issued upon the request or upon the Commission's own motion. Persons who request a hearing, or who request to be advised as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For further information, contact Thomas G. Sheehan, Special Counsel, at

<sup>1</sup> 29 U.S.C. section 1002(38) defines an investment manager as any fiduciary (other than a trustee or named fiduciary) (A) who has the power to manage, acquire, or dispose of any plan asset; (B) who is a bank (as defined in section 202(a)(2) of the Act), an insurance company qualified to do business in more than one state, or an investment adviser registered under section 203 of the Act; and (C) who has acknowledged in writing that he or she is a fiduciary with respect to the plan.



(202) 272-3033 or Douglas J. Scheidt, Assistant Director, at (202) 272-2098 (Division of Investment Management, Office of Enforcement Liaison).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

#### APPENDIX

Adviser/address	File No. (801-)
Am Cal Advisors, Inc., 15217 Hortense Street, Studio City, CA 91604	26991
Am Cal Co., 15217 Hortense Street, Studio City, CA 91604	16990
Bedford Properties, Inc., P.O. Box 1267, Lafayette, CA 94549	19970
David Lee Bonucelli, 818 University Avenue, Sacramento, CA 95825	40241
Brighton Pacific Realty Asset Management Co., 80 Grand Avenue, Suite 200, Oakland, CA 94612	36311
John Burnham & Co., P.O. Box 2910, San Diego, CA 92112	37936
Burton Associates, 8722 Burton Way #403, Los Angeles, CA 90048	30493
CB Commercial Realty, Realty Advisors, Inc., 533 S. Fremont Avenue, Los Angeles, CA 90071	19638
D.A. Management, Inc., 7777 Center Ave., Suite 500, Huntington Beach, CA 92647	32998
DW Multiemployer Plan Advisors, 1707 School House Circle, Thousand Oaks, CA 91362	40396
Grubb & Ellis Realty Advisors, Inc., One Montgomery St., Suite 3200, San Francisco, CA 94104	19252
Institutional Property Resources, 15301 Ventura Blvd. #424, Sherman Oaks, CA 91403	37801
IONE Real Estate, Inc., 615 N. Hillcrest Road, Beverly Hills, CA 90210	39576
Lowe Enterprises Investment Management, Inc., 11777 San Vicente Blvd. #900, Los Angeles, CA 90049	38381
L.J. Melody & Co., 18500 Von Karman Avenue #595, Irvine, CA 92715	32032
Meyer Real Estate Advisors, Inc., 222 S. Harbor Blvd. #700, Anaheim, CA 92805	33869
Pension Fund Real Estate Investment Co., 7445 N. Lafayette Avenue, Fresno, CA 92711	16155
PM Realty Advisors, Inc., 800 Newport Center Drive, Newport Beach, CA 92660	21706
Prudential Mortgage Bankers & Investment Corp., 2067 Mt. Diablo Blvd., Walnut Creek, CA 94596	10342
PSI Institutional Realty Advisors, Inc., 1015 Grandview Avenue, Glendale, CA 91201	32540
Public Storage Institutional Realty Advisors, 1015 Grandview Avenue, Glendale, CA 91201	35242
Regency West Real Estate Co., 260 California St., Ste 700, San Francisco, CA 94111	16955
Scudder Realty Advisors, 333 S. Hope Street, 37th Fl., Los Angeles, CA 90071	09633
Strategic Property Advisors, Inc., 225 Broadway, Suite 1210, San Diego, CA 92101	30985

#### APPENDIX—Continued

Adviser/address	File No. (801-)
Tishman West Management Corp., 10960 Wilshire Blvd., Los Angeles, CA 90024	26948
Westmark Real Estate Investment Services, 400 S. Hope Street, Los Angeles, CA 90071	31407

[FR Doc. 92-3883 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30372; File No. S7-2-92]

#### Joint Industry Plan; Order Extending Public Comment Period for Proposed Option Market Linkage Plan by the Chicago Board Options Exchange, and American, New York, and Pacific Stock Exchanges

February 13, 1992.

On December 4, 1990, pursuant to rule 11Aa3-2 under the Securities and Exchange Act of 1934 ("Act"), the Chicago Board Options Exchange, Inc. ("CBOE"), American Stock Exchange, Inc. ("Amex"), New York Stock Exchange, Inc. ("NYSE") and Pacific Stock Exchange, Inc. ("PSE") filed with the Securities Exchange Commission ("Commission" or "Sec") a proposed Joint Industry Plan ("Plan") providing for the creation and operation of an Options Intermarket Communications Linkage ("Linkage"). The filing was amended on April 29, 1991, when the signatories to the Plan submitted the Model Option Trade-Through Rule as Exhibit A to the Plan.<sup>1</sup> The Commission published and solicited comment on the proposed Linkage Plan by February 12, 1992.<sup>2</sup>

On January 30, 1992, the Commission received a request from the Committee on Options Proposals ("C.O.O.P.") to extend the comment period<sup>3</sup> and on February 3, 1992, the Commission received a similar request from the chairman of the Securities Industry Association's ("SIA") Options and Derivative Products Committee.<sup>4</sup> Both

<sup>1</sup> See letter to Jonathan G. Katz, Secretary, SEC, from Edward L. Provost, First Vice President, Operation Planning Group, CBOE, dated April 29, 1991.

<sup>2</sup> See Securities Exchange Act Release No. 30187 (January 14, 1992) 57 FR 2612.

<sup>3</sup> See letter from Michael Schwartz, Chairman, C.O.O.P., to Jonathan G. Katz, Secretary, SEC, dated January 30, 1992. C.O.O.P. is an options industry organization comprised of 30 member firms, 5 options exchanges, and the Options Clearing Corporation.

<sup>4</sup> See letter from Thomas P. Hart, Corporate Vice President, PianeWebber, on behalf of the SIA Options and Derivative Products Committee, to

organizations requested additional time to poll their members and formulate their current positions.

The Commission believes that it is appropriate to extend the comment period on this proposal to give all interested parties time to respond to the comment solicitation in a complete and thorough manner.

*It Is Hereby Ordered*, That the period for public comment on the proposed plan is extended to March 13, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-3941 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30363; File No. SR-Amex-92-01]

#### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Listing Options on the Amex Biotechnology Index

February 10, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that the American Stock Exchange, Inc. ("Amex"), on January 3, 1992, filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade options on the Biotechnology Index (the "Index"), a new stock index developed by the Amex based on biotechnology industry stocks or American depository receipts thereon ("ADRs") which are traded on the Amex, the New York Stock Exchange (the "NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("NASDAQ-NMS"). The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

Kathryn Natale, Assistant Director, SEC, dated January 28, 1992.



## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

### (A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### General

The Amex has developed a new industry-specific index called the Biotechnology Index, based entirely on shares of widely held biotechnology industry stocks and ADRs which are exchange or NASDAQ/NMS listed. The Amex intends to trade option contracts on the newly developed Index.

The Index contains securities of highly-capitalized companies in the biotechnology industry. The biotechnology industry includes companies whose primary business involves the use of biological processes to develop products or to provide services. Such processes include, but are not limited to, recombinant DNA technology, molecular biology, genetic engineering, monoclonal antibody-based technology, and lipid/liposome technology.

#### Index Calculation

The Index is calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. This method of calculation is important since even among the largest companies in the biotechnology industry there is a great disparity in size. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the biotechnology industry, Amgen Inc. currently represents over 45% of the aggregate market value of the Index. In addition, while currently there is not as much disparity in the prices of the stocks included in the Index, a price-weighted method of calculating the Index's value is not the Exchange's preferred method for calculating an index based on biotechnology stocks

since the prices of such stocks can fluctuate significantly as a result of a corporate action (e.g., a stock split or distribution) rather than as a result of stock performance, causing the relative weighting of a stock within the Index to fluctuate significantly.

The following is a description of how the "equal-dollar weighting" calculation method works. As of the market close on October 18, 1991, a portfolio of biotechnology stocks was established representing an investment of \$10,000 in the stocks (to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. The Index divisor was initially calculated to yield the benchmark value of \$200.00 at the close of trading on October 18, 1991. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio will be adjusted by changing the number of shares of each component stock so that each company is again represented in "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly reviews except, however, in the event of certain types of corporate actions such as the payment of a dividend, other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks, or a merger, consolidation, dissolution or liquidation of an issuer of a component stock, in which case the number of shares of the security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of a new component, to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

The Amex will calculate and maintain the Index, and, pursuant to Exchange rule 901C(b), may at any time or from time to time substitute stocks, or adjust

the number of stocks included in the Index, based on changing conditions in the biotechnology industry. In selecting securities to be included in the Index, the Exchange will be guided by a number of factors including the market value of outstanding shares and trading activity. The eligibility standards for Index components are described below.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

#### Expiration and Settlement

The proposed options on the Index are European style (*i.e.*, exercises are permitted at expiration only), and cash settled. Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply.

The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Index value for purposes of settling a specific Index option will be calculated based upon the regular way opening sale price for the component stocks in their primary market. In the case of securities trade through the NASDAQ system, the first reported sale price will be used. As trading begins in each of the Index's component securities, its opening sale price is captured for use in the calculation. Once all of the component stocks have opened, the value of the Index is determined and that value is used as the settlement value for the option. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior day's last sale price is used in the calculation.

#### Eligibility Standards for Index Components

Exchange rule 901C specifies criteria for inclusion of stocks in an index on which options will be traded on the Exchange. In choosing among biotechnology industry stocks that meet the minimum criteria set forth in rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of rule 901C) or NASDAQ/NMS. In addition, the Exchange intends to focus on stocks that (1) have a minimum



market value (in U.S. dollars) of at least \$75 million,<sup>1</sup> and (2) have an average monthly trading volume of not less than 500,000 shares (or ADRs) in the U.S. markets over the previous six month period. Although the stocks currently selected for inclusion in the Index meet or surpass the above additional criteria, the Exchange intends the above criteria to be used as guidelines only and reserves the right to include stocks in the Index that may not meet these guidelines, but do, of course, meet the criteria of rule 901C.

#### Exchange Rules Applicable to Stock Index Options

Amex rules 900C through 980C will apply to the trading of option contracts based on the Index. These rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Index is deemed to be a Stock Index Option under rule 901C(a) and a Stock Index Industry Group under rule 900C(b)(1). Under rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three month intervals in the January cycle. The Exchange expects that the review required by rule 904C(c) will result in a position limit of 8,000 contracts for the Index.

#### Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

#### (B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose a burden on competition.

#### (C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 11, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>2</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-3384 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30369; File No. SR-CBOE-91-25]

#### Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Establishment of a Minor Rule Violation Fine Plan

February 13, 1992.

#### I. Introduction

On June 17, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> filed with the Securities and Exchange Commission ("Commission") a proposed rule change that would enable the Exchange to impose fines in an amount not to exceed \$5,000 for minor violations of certain CBOE rules, in lieu of commencing a disciplinary proceeding for violations of these rules. This order approves the CBOE's proposed minor rule violation fine plan. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 29497 (July 30, 1991), 56 FR 40946.<sup>3</sup> No comments were received on the proposed rule change.

On October 8, 1991, the CBOE submitted a fourth amendment to the proposal ("Amendment No. 4"). In Amendment No. 4, the Exchange amended its proposal<sup>4</sup> to include a

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1982).

<sup>2</sup> 17 CFR 240.19b-4 (1989).

<sup>3</sup> On June 1991, the Exchange amended its proposal to provide a more detailed description of the proposal. See letter from Robert P. Ackermann, Vice President, Legal Services, CBOE, to Thomas Gira, Branch Chief, Options Branch, Commission, dated June 28, 1991 ("Amendment No. 1"). On August 19, 1991, the Exchange amended the proposal to clarify the basis upon which fines are imposed upon market makers or floor brokers for submitting inaccurate or no transaction times for trades to the Exchange or failure to submit required information to the price reporter. See letter from Deborah Bleich Cogan, Attorney, CBOE, to Howard Kramer, Assistant Director, Commission dated August 19, 1991 ("Amendment No. 2"). On September 19, 1991, the Exchange amended the proposal to provide that a forum fee will only be assessed on a respondent after the respondent receives an adverse decision upon appeal of a fine to the CBOE's Business Conduct Committee ("BCC"). Previously, the CBOE proposal provided that a forum fee would be assessed whenever a respondent appealed a minor rule violation fine to the BCC. See letter from Deborah Bleich Cogan, Attorney CBOE, to Thomas Gira, Branch Chief, Options Branch, Commission, dated September 19, 1991 ("Amendment No. 3"). Because each of these amendments are technical in nature or clarify the proposal without affecting its substance, they have not been separately published for comment.

<sup>4</sup> See letter from Deborah Bleich Cogan, Attorney, CBOE, to Joseph B. McDonald, Jr., Attorney, Options Branch, Commission, dated October 8, 1991. In addition to amending the proposal to include a minor rule violation reporting plan, Amendment No.

Continued

<sup>1</sup> In the case of ADRs, this represents market value as measured by total world-wide shares outstanding.

<sup>2</sup> 17 CFR 200.30-3(a)(12) (1991).



minor rule violation reporting plan under section 19(d)(1) of the Act<sup>5</sup> and Rule 19d-1(c)(2) thereunder<sup>6</sup> Rule 19d-1 which was adopted in 1977 pursuant to section 19(d)(1) of the Act,<sup>7</sup> requires self-regulatory organizations ("SROs") to report to the Commission notices of final disciplinary actions and prescribes the contest of such notices. Specifically, Rule 19d-1(c) requires any SRO that takes "any final disciplinary action" with respect to any person to file promptly a notice of the action with the Commission. In 1984, the Commission amended Rule 19d-1(c) to enable the SROs to adopt plans for the summary discipline and abbreviated reporting of minor violations of certain SRO rules by SRO members and member organizations.<sup>8</sup>

4 makes several other minor changes to the proposal. These amendments have not been separately published for comment because they are technical in nature or clarify the proposal. This includes that portion of the amendment regarding the creation of the minor rule violation reporting plan. Rule 19d-1(c)(2), which provides for the filing and approval of a minor rule violation reporting plan, states that the Commission must provide "appropriate notice of the terms of substance of the filing or a description of the subjects and issues involved and opportunity for interested persons to submit written comment." \* \* \* The Commission notes that the terms of substance of the plan were published for comment in Securities Exchange Act Release No. 29497. The only addition to the plan contained in Amendment No. 4 that was not previously published for comment regards the timing of the reporting of rule violations under the plan, that is, that rule violations would be reported on a quarterly basis. This change, as stated above, is minor in nature and has not been separately published for comment.

<sup>5</sup> 15 U.S.C. 78s(d)(1).

<sup>6</sup> 17 CFR 240.19d-1(c)(2).

<sup>7</sup> Securities Exchange Act Release No. 13726 (July 8, 1977), 42 FR 36410.

<sup>8</sup> See Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (order approving amendments to paragraph (c)(2) of Rule 19d-1 under the Act.) Under paragraph (c)(2) of Rule 19d-1 as amended, any disciplinary action taken by an SRO for violation of the SRO's rules that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding \$2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. By deeming adjudicated, minor violations as not final, the Commission permits SROs to report violations on a periodic basis rather than an immediate basis.

Rule 19d-1(c)(1) contains an exemption from the notice requirement for certain decorum violations that is separate from the plan described above. A disciplinary action which results in the imposition of a fine not exceeding \$1,000 or suspension of floor privileges of a clerical employee for not more than five days for a violation of an exchange's decorum rules on a trading floor will not be considered "final" if the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies. Therefore, only those decorum violations in excess of \$1,000 but not exceeding \$2,500 may be included in the plan.

## II. Description of the Proposal

The proposal adds new CBOE Rule 17.50, which authorizes the Exchange, in lieu of commencing a disciplinary proceeding for minor violations of certain CBOE rules, to impose a fine in an amount not to exceed \$5,000.<sup>9</sup> The proposal, however, permits any person to contest the imposition of a fine through the submission of a written answer, at which time the matter will become a disciplinary proceeding subject to chapter XVII of the Exchange's Rules and, where applicable, the reporting provisions of Rule 19d-1(c)(1) of the Act.

Specifically, in any action taken by the Exchange pursuant to proposed Rule 17.50, the Exchange must serve the person against whom a fine is imposed with a written statement, setting forth: (1) The rule(s) allegedly violated; (2) the act or omission constituting each such violation; (3) the fine imposed for each such violation; and (4) the date by which such determination becomes final and such fine must be paid or contested, which date shall not be less than 30 days after the date of service of the written statement. A person contesting a fine under the plan must file a written answer with the Exchange within the time provided above and such answer must include a request for a hearing if a hearing is desired. A hearing or a review based on written submissions will be conducted by the BCC.<sup>10</sup> The BCC, if it determines that the person charged is guilty of the rule violation(s) alleged, may impose any one or more of the disciplinary sanctions authorized by the Exchange's Constitution and Rules and will impose a forum fee against the person charged of \$100 if the determination was reached without a hearing or \$300 if a hearing was conducted. Nothing in the proposal, however, requires the Exchange to impose a fine according to the plan. The Exchange may, in its discretion, determine that any particular violation is not minor in nature and commence a disciplinary proceeding under Rule 17.2 *et seq.*, rather than under the plan.

The Exchange proposes to incorporate violations of the following Exchange rules into its proposed plan: (1) Violations of position limit rules (Rules

4.11 and 24.4(a)); (2) failure to file FOCUS reports in a timely manner (Rule 15.5); (3) failure to respond in a timely manner to requests for the automated submission of trading data (Rule 15.7); (4) failure to submit accurate trade information (Rule 6.51A);<sup>11</sup> (5) failure to submit trade information to price reporters (Rule 6.51A); and (6) violations of the Exchange's trading conduct and decorum rules (Rule 6.20). For each rule violation, the proposal provides for a graduated fine schedule where the fine is increased depending on the severity and frequency of the rule violation. Under proposed Rule 17.50(e), however, the Exchange, if warranted under the circumstances in the view of the staff of the Exchange, may impose the maximum fine for a first or second offense.

For rule violations covered within the plan where the fine is less than \$2,500, the Exchange would be relieved from the requirement imposed by section 19(d)(1) of the Act that the disciplinary action be reported immediately to the Commission. This is because such disciplinary actions would not be "final" disciplinary actions under Rule 19d-1(c)(2). Therefore, in accordance with Rule 19d-1(c)(2), the CBOE's proposed minor rule violation reporting plan provides that uncontested minor rule violations with sanctions not exceeding \$2,500 will not be subject to the current reporting provisions of Rule 19d-1(c)(1), provided the Exchange gives notice of such violations to the Commission on a quarterly basis.<sup>12</sup>

The CBOE's minor rule violation reporting plan provides that such quarterly reports shall include: (1) The Exchange's internal file number for the case; (2) the Commission's file number; (3) the name of the individual or member organization; (4) the nature of the violation; (5) the specific rule provision violated; (6) the date of the violation; (7) the fine imposed; (8) an indication of whether the fine is joint and several; (9) the number of times the violation has occurred; (10) the date of disposition; and (11) any other information included by the Exchange.

Pursuant to proposed Rule 17.50(f), the Exchange will issue regulatory circulars to its membership from time to time listing the Exchange Constitution and rule provisions covered within the

<sup>9</sup> Any fine imposed in excess of \$2,500 will be subject to current rather than quarterly reporting to the Commission, in accordance with Rule 19d-1 under the Act. See *supra*, note 8.

<sup>10</sup> Appeals of fines imposed for violations of the Exchange's trading conduct and decorum rules that do not exceed \$2,500, however, will be contested before the Appeals Committee, and the proceedings will be subject to the provisions of Chapter XIX of the CBOE's rules, Hearings and Review.

<sup>11</sup> Because the proposal incorporates the provisions of Rule 6.51A into both the new rules and the circulars to be disseminated to Exchange members, the Exchange proposes to delete Rule 6.51A upon approval of the present proposal.

<sup>12</sup> See *supra* note 8 for a discussion of the notice requirements for violations in excess of \$2,500.



summary fine procedures.<sup>13</sup> Such list will indicate the specific dollar amount that may be imposed as a fine with respect to any violation of any rule under the plan.

Under proposed Rule 17.50(d), fines imposed pursuant to Rule 17.50 will be billed by means of the Exchange's integrated billing system to the clearing member designated by the person fined for the payment of his Exchange invoices. The fine will be an obligation payable to the Exchange by the clearing member regardless of whether the clearing member has collected the amount of the fine from the person fined unless: (1) The person fined does not have an active account with the billed clearing member or the equity in such person's account with that clearing member is less than the amount of the fine, and (2) the clearing member notifies the Exchange in writing within 15 days after the billing date of the above-mentioned condition. In that event, the Exchange will bill such person directly. In the event that the fined person contests the fine within the time period specified under Rule 17.50, but after the fine has been collected, the Exchange will promptly refund the amount collected to the applicable clearing member's account.

### III. Discussion

The Commission finds that the proposed plan is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, with the requirements of sections 6(b) (6) and (7) and section 19(d) of the Act.

Section 6(b)(6) of the Act requires that the rules of the Exchange provide that its members be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and the Exchange's rules. The Commission believes that the violations of the rules contained in the plan are either objective or technical in nature, and easily verifiable, and therefore lend themselves to the use of a fine schedule. The fine schedules are graduated to account for repeat offenders, and provide for the Exchange to impose the maximum fine for a first or second violation if warranted. In addition, if the Exchange determines that a violation otherwise covered by the plan is not minor in nature, it may proceed instead

with a disciplinary proceeding under Chapter XVII of its rules and impose other more serious sanctions. Accordingly, the Commission believes that the proposed fine schedules contained in the plan will result in appropriate discipline.

Section 6(b)(7) of the Act requires the rules of the Exchange to "provide a fair procedure for the disciplining of members and persons associated with members \* \* \*." The Commission believes that the CBOE's proposed minor rule violation plan allows the Exchange to impose prompt, effective and appropriate discipline without compromising respondent's rights to "fair procedures" in CBOE disciplinary proceedings. In this regard, the Commission notes that the proposed plan only contains rules for which violations are easily verifiable or are very minor in nature. Therefore, the risk that a person may be erroneously fined for a rule violation in the expedited manner called for under the plan is minimized. In addition, the Commission notes that the plan provides procedural rights to persons who are fined (*i.e.*, notification of the rules allegedly violated, the act or omission constituting the violation and the fine imposed) and permits them to contest the Exchange's imposition of the fine and request a full disciplinary proceeding. Moreover, the Commission notes that proposed CBOE Rule 17.50(f) requires the CBOE to issue regulatory circulars to its membership from time to time listing the Exchange Constitution and rule provisions subject to the plan. By publicizing the rule violations covered by the plan as well as the likely sanctions for violations of these rules, the Commission believes the fairness to respondents afforded by the minor rule violation plan is enhanced.

The Commission also notes that the plan, by allowing minor rule violations to be processed in an expedited manner, permits more Exchange resources to be allocated to the more complex and serious alleged violations of Exchange rules and the federal securities laws, and, therefore, helps to ensure that appropriate and fair discipline is imposed in these cases. Finally, the Commission notes that the plan provides for a forum fee. The Commission believes it is reasonable to shift a portion of the costs associated with appeal proceedings to those members seeking review of a fine. The Commission believes that the imposition of the forum fee is reasonable because it is charged only on respondents who unsuccessfully appeal a fine and the fee serves as a vehicle to match Exchange costs in processing minor disciplinary

matters. Moreover, the Commission does not believe that the forum fee deters respondents from appealing fines imposed pursuant to the plan. The Commission, therefore, believes that the proposal appropriately balances the Exchange's interest in the efficient administration of its review proceedings with a member's interest in the fair and equitable resolution of a fine on appeal.

Section 19(d)(1) of the Act, among other things, requires the Exchange to file prompt notice with the Commission of any final disciplinary action it imposes on any member. As described above,<sup>14</sup> however, Rule 19d-1(c)(2) permits SROs to establish minor rule violation plans whereby an SRO may designate rule violations as not "final" or minor and report these rule violations on a periodic, as opposed to an immediate, basis. The Commission has reviewed the CBOE's proposed minor rule violation plan and, for the reasons stated above, finds that it is consistent with the public interest and the protection of investors. Therefore, the Commission finds that the proposal is consistent with section 19(d)(1) of the Act and that unadjudicated, minor violations of rules under the plan may be reported on a quarterly, rather than immediate, basis.

*It is Therefore Ordered*, Pursuant to section 19(b)(2) of the Act and Rule 19d-1(c)(2) under the Act,<sup>15</sup> that the proposed rule change (File No. SR-CBOE-91-25) be, and hereby is, approved, and that the Exchange's minor rule violation reporting plan is declared effective.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>16</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-3937 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30370; File No. SR-DTC-92-03]

### Self-Regulatory Organizations; The Depository Trust Co.; Filing of a Proposed Rule Change Relating to Enhancement to the Collateral Loan Program

February 13, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby

<sup>13</sup> See *supra*, note 8 and accompanying text.

<sup>14</sup> 15 U.S.C. 78s(b)(2) (1982) and 17 CFR 240.19d-1(c)(2) (1989).

<sup>15</sup> See 17 CFR 200.30-3(a)(12) (1989).

<sup>13</sup> The Commission notes that, pursuant to Section 19(b) of the Act, the Exchange must file such circulars with the Commission as a proposed rule change if new Exchange Constitution and rule provisions are added to the list. Such a rule change must be approved by the Commission before the CBOE can use the summary fine procedures for the newly added rules.



given that on February 7, 1992, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change would apply to pledges made to Federal Reserve Banks ("FRB") that are pledgees in DTC's book-entry system. DTC would enable a participant pledging on behalf of a customer, rather than for its own account, to include in the pledge instruction a code indicating the non-participant depository institution for which it is pledging securities to any FRB. DTC would capture the code and include it in all reports to the FRB.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspects of such statements.

##### **A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to encourage DTC book-entry pledging by depository institutions to FRBs. Depository institutions are required to pledge collateral to FRBs to secure advances ("discount"), to secure treasury tax and loan account balances, to secure deposits of public money, for other public purposes, and to secure intraday overdrafts ("daylight overdrafts") on the books of the FRB. Many depository institutions, including both direct and indirect participants, maintain securities acceptable for such pledges on deposit at DTC.

DTC first adapted its Collateral Loan program for use by FRBs in 1987.<sup>1</sup> At

that time, only the FRB in New York was a DTC pledgee. Since that time, six other FRBs have become pledgees (Atlanta, Boston, Kansas City, Philadelphia, Richmond, and St. Louis). However, very few pledges are made to these other FRBs through DTC. When DTC investigated why other FRBs had not become pledgees and why so few pledges were made to the FRBs who are pledgees, representatives of the FRBs stated that, because non-participant pledgors are not identified on DTC's reports to the pledgee, they only accept pledges through DTC from pledgors who are direct participants of DTC. While DTC's procedures permit a non-participant pledgor to be identified on a hard copy pledge form or in the "comments" field of a pledge instruction over DTC's Participant Terminal System ("PTS"), DTC's computer readable data bases and standard reports to pledgees identify only the direct DTC participant.

Because FRBs currently pledges only from direct participants of DTC, non-participants who wish to pledge to an FRB securities held in DTC's book-entry system currently must withdraw them from the depository and redeliver the physical certificates to the FRB or to another custodian acceptable to the FRB. This proposed rule change would eliminate the need for such withdrawal. The proposed rule change is consistent with the requirements of section 17A of the Act, and the rules and regulations thereunder because it promotes the immobilization of securities certificates by eliminating the need for certain withdrawals.

##### **B. Self-Regulatory Organization's Statement on Burden on Competition**

DTC does not believe that the proposed rule change would impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

##### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others**

In August 1991 DTC received a letter from Mr. Thomas Hoenig, President of the FRB in Kansas City, who at that time was the Chairman of the Subcommittee on Discounts and Credits, requesting the Collateral Loan enhancement that is the subject of the proposed rule change. DTC's Participant Services and Systems and Computing Development staff worked with all twelve FRBs to ensure that the design is satisfactory to each of them.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to such period that the self-regulatory consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to file number SR-DTC-92-03 and should be submitted by March 12, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-3938 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30371; File No. SR-OCC-92-07]

**Self-Regulatory Organizations; The Options Clearing Corp.; Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Eligibility of Additional Instruments for the Cross-Margin Program with the Chicago Mercantile Exchange**

February 13, 1992.

Pursuant to section 19(b)(1) of the

<sup>1</sup> Securities Exchange Act Release No. 25211 (December 18, 1987), 52 FR 48893.



Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on February 12, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change (File No. SR-OCC-92-07) as described in Items I, II, and III below, which Items have been prepared by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change.

### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The purpose of the proposed rule change is to allow OCC to cross-margin options on the Standard and Poor's MidCap 400 Index ("MidCap 400") with MidCap 400 futures and with options on MidCap 400 futures. The proposed change also is to allow OCC to cross-margin options on the Financial Time Share Index ("FTSE 100") with FTSE 100 futures and with options on FTSE 100 futures. The MidCap 400 futures, options on MidCap 400 futures, FTSE 100 futures, and options on FTSE 100 futures are to be traded at the Chicago Mercantile Exchange ("CME").

### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

#### **A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to allow OCC to cross-margin options on the MidCap 400, which are to be traded on the American Stock Exchange ("Amex"), with MidCap 400 futures and with options on the MidCap

400 futures, which are to be traded on the CME. The proposed rule change also would allow OCC to cross-margin options on the FTSE 100, which is to be traded on the Chicago Board Options Exchange ("CBOE"), with FTSE 100 futures and with options on the FTSE 100 futures, which are to be traded on the CME.

The options on the MidCap 400, the MidCap 400 futures, and the options on the MidCap 400 futures are all in the same class group since the underlying asset is the same index. Accordingly, OCC and CME have agreed to allow these contracts to be cross-margined with each other.<sup>2</sup> Since the OCC and CME also have agreed to place the MidCap 400 class group into the broad-based index product group, it will be cross-margined with all of the OCC/CME cross-margin eligible options and futures in the broad-based index product group.<sup>3</sup> Given that the correlations among the MidCap 400 and the other broad-based indexes range from 85% to 95%, the offset percentage, or haircut, within the broad-based index product group will remain at 10%. OCC will monitor closely the MidCap 400 correlations as trading commences in these new products.

Since the securities underlying the options on the FTSE 100, the FTSE 100 futures, and the options on the FTSE 100 futures are identical, OCC will place the options, the futures, and the options on the futures in the same class group. Accordingly, OCC and CME have agreed to allow these contracts to be cross-margined with each other. OCC anticipates, however, that the FTSE 100 class group will be in a separate product group by itself and, therefore, will not be cross-margined with the broad-based product group.<sup>4</sup>

<sup>2</sup> For a description of the OCC/CME cross-margin program, refer to Securities Exchange Act Release Nos. 27296 (September 26, 1989), 54 FR 41195 [File No. SR-OCC-89-01] (order approving OCC/CME proprietary cross-margining) and 29991 (November 26, 1991), 56 FR 61458 [File No. SR-OCC-90-01] (order approving OCC/CME non-proprietary, market professional cross-margining).

<sup>3</sup> For a list of contracts eligible for OCC/CME cross-margining, refer to Securities Exchange Act Release No. 29991 (November 26, 1991), 56 FR 61458 [File No. SR-OCC-90-01] (order approving OCC/CME non-proprietary, market professional cross-margining) at note 13.

<sup>4</sup> Should OCC decide to include the FTSE 100 class group in the broad-based index product group so that FTSE 100 contracts can be cross-margined with all cross-margin eligible contracts in the broad-based index product group, OCC, prior to inclusion, will submit to the Commission for approval a section 19(b) proposed rule change filing prior to so including.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act because it expands the list of contracts eligible for OCC/CME cross-margining thereby helping to make the national system for the clearance and settlement of securities transactions more efficient and cost-effective.

#### **B. Self-Regulatory Organization's Statement on Burden on Competition**

OCC does not believe that the proposed rule change will have an impact on competition.

#### **C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others**

OCC has not solicited comments with respect to the proposed rule change, and none have been received.

### **III. Date of Effectiveness of the Proposed Rule Change and Timing of Commission Action**

OCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the *Federal Register*. Such accelerated approval would permit the OCC to coordinate its operations with the exchanges involved in this proposal.

The Commission believes OCC's proposed rule change to permit cross-margining of the above-named products is consistent with the Act, and particularly with section 17A of the Act.<sup>5</sup> Sections 17A(b)(3) (A) and (F) of the Act<sup>6</sup> require that a clearing agency be so organized and that its rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of clearing agencies. Additionally, section 17A(a)(1) of the Act<sup>7</sup> specifically encourages the use efficient, effective, and safe procedures for securities clearance and settlement. The Commission in recent years has dealt in a comprehensive manner with numerous proposals involving OCC and cross-margining.<sup>8</sup> For the reasons discussed in those orders as well as the reasons discussed above, the Commission believes that this proposal warrants approval in that

<sup>5</sup> 15 U.S.C. 78q-1 (1988).

<sup>6</sup> 15 U.S.C. 78q-1(b)(3) (A) and (F) (1988).

<sup>7</sup> 15 U.S.C. 78q-1(a)(1) (1988).

<sup>8</sup> E.g., Securities Exchange Act Release Nos. 29991 (November 26, 1991), 56 FR 61458 [File No. SR-OCC-90-01] and 30041 (December 5, 1991), 56 FR 64824 [File No. SR-OCC-90-04].

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).



it helps to further the perfection of the national system for the clearance and settlement of securities transactions.

The Commission also finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of filing. Accelerated approval of the proposal will allow OCC to coordinate with CME, Amex, and CBOE the cross-margining of the various options and futures on these indexes with the start of their trading. This should, consistent with Section 17A, help to make the national system for clearance and settlement more efficient and cost efficient.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-92-07 and should be submitted by March 12, 1992.

*It is Therefore Ordered*, Pursuant to section 19(b)(2) of the Act,<sup>9</sup> that the proposed rule change (File No. SR-OCC-92-07) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 92-3939 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18552; 812-7842]

#### American General Series Portfolio Company, et al.; Investment Company Act of 1940

February 13, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for an order under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** American General Series Portfolio Company (the "Fund"), The Variable Annuity Life Insurance Company ("VALIC"), The Variable Annuity Life Insurance Company Separate Account A ("VALIC's Separate Account A"), American General Life Insurance Company ("AG Life"), successor in interest to California-Western States Life Insurance Company ("Cal-Western"), and American General Life Insurance Company Separate Account A ("AG Life's Separate Account A"), successor in interest to Cal-Western Separate Account A ("Cal-Western's Separate Account A").

**RELEVANT ACT SECTIONS:** Exemption requested under section 17(b), or alternatively section 6(c), of the Act from the provisions of sections 17(a)(1) and 17(a)(2) of the Act.

**SUMMARY OF APPLICATION:** Applicants seek an order exempting, from the prohibitions of section 17(a) of the Act, certain transactions in connection with the combination of two investment portfolios of the Fund and the combination of two divisions of VALIC's Separate Account A and the combination of two divisions of AG Life's Separate Account A.

**FILING DATE:** the application was filed on December 24, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 9, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; the Fund and VALIC, c/o Cynthia A. Toles,

Senior Associate General Counsel and Secretary, 2929 Allen Parkway, suite A5-01, Houston, TX 77019; AG Life, Steven A. Glover, Associate General Counsel, P.O. Box 4382, Houston, TX 77019.

**FOR FURTHER INFORMATION CONTACT:** Cindy Rose, Financial Analyst, at (202) 272-3027, or Heidi Stam, Assistant Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

#### Applicants' Representations

1. The Fund was incorporated under the laws of Maryland on December 7, 1984 and is registered under the Act as an open-end, diversified management investment company. The Fund is a series investment company, comprised of ten investment portfolios ("portfolios"), including the Stock Index Fund ("SIF") and the Quality Growth Fund ("QGF").

2. The Fund issues shares of SIF and QGF to corresponding divisions of VALIC's Separate Account A and AG Life's Separate Account A to support assets for variable annuity contracts (the "Contracts") issued by VALIC and AG Life.

3. The primary investment objective of QGF is to seek maximum total return over an extended period of time from both capital appreciation and investment income. Preservation of capital when financial, economic, and/or market conditions indicate that a defensive strategy may be appropriate is a secondary investment objective. QGF pursues its primary investment objective by investing principally in equity and equity-related securities.

The investment objective of SIF is to seek to provide long-term capital growth that corresponds to the composite price performance of the Standard & Poor's 500 Composite Price Index, through investment in common stocks traded on the New York Stock Exchange and the American Stock Exchange.

4. VALIC is a stock life insurance company organized under the laws of Texas as a successor to a life insurance company organized in 1955. VALIC is an indirect wholly-owned subsidiary of American General Corporation ("AGC"). VALIC is principally engaged in the offering and issuance of fixed and variable retirement annuity contracts and combination thereof.

<sup>9</sup> 15 U.S.C. 78a(b)(2).

<sup>10</sup> 17 CFR 200.30-3(a)(12).



5. VALIC is the depositor of VALIC's Separate Account A, which was established in 1979 in accordance with the Texas Insurance Code and is registered under the Act as a unit investment trust funding contracts issued by VALIC. The separate account consists of 15 divisions, each of which invests in the shares of a specific underlying series of the Fund. Divisions, Division 9A, Division 9B and Division 9C each invest in shares of QGF. Division 10 invests in shares of SIF. VALIC, through VALIC Separate Account A, owned of record 93.24% and 99.99% of the outstanding voting securities of QGF and SIF, respectively.

6. AG Life is a stock life insurance company, organized under the laws of Texas and created by a merger effective on December 31, 1991.<sup>1</sup> AG Life is the successor in interest to Cal-Western.

7. AG Life's Separate Account A is a separate account created, in accordance with the Texas Insurance Code, as the result of the merger, referred to above, effective on December 31, 1991. The Separate Account is the successor in interest to Cal-Western Separate Account A. It is registered under the Act as a unit investment trust funding contracts issued by AG Life. The separate account consists of seven divisions, each of which invests in the shares of a particular series of the Fund. Division 36 and Division 37 AG Life's Separate Account A invest in QGF and SIF, respectively.

8. VALIC serves as the Fund's investment adviser pursuant to an investment advisory agreement approved by the Fund's shareholders on September 7, 1990. Pursuant to its Investment Advisory Agreement with the Fund, VALIC receives, with respect to QGF and SIF, a monthly fee based on each Fund's average monthly net asset value of the following annual rates: For QGF, .50% of the first \$150 million, .45% on the next \$100 million, .40% on the next \$100 million, and .35% on the excess over \$350 million and, for SIF, a flat rate of .35%.

9. On October 29, 1991, the Fund's Board of Directors, including a majority of those directors who are not "interested persons" (as defined in the Act) of the Fund or Applicants, approved in principle the proposed combination of QGF into SIF, which will take effect on or about April 30, 1992 (the "Closing Date"). The primary purpose of the proposed combination is to improve the investment performance of QGF, relative to the S&P 500 Index.

10. The Fund will effect the proposed combination in accordance with its Articles of Incorporation and the provisions of the Maryland General Corporation Law ("Maryland Code"). Under the Maryland Code, the proposed combination of QGF into SIF will be treated as a reclassification of shares of the Fund (the "Plan").

11. In connection with the reclassification of shares, QGF will transfer after the close of regular trading of the New York Stock Exchange, currently 4 p.m. New York time (hereinafter the "Effective Time"), on the Closing Date all of its assets and liabilities to SIF, in exchange for which SIF will issue to QGF the number of SIF shares having an aggregate net assets of QGF acquired.

In accordance with section 22(c) of the Act and rule 22c-1 thereunder, the number of shares of SIF to be issued will be determined on the basis of the relative net asset values of QGF and SIF calculated as of the Effective Time on the Closing Date. The net asset values of each portfolio will be determined in accordance with the procedures set forth in the Fund's prospectus and statement of additional information.

QGF will then distribute such SIF shares to QGF Contract owners on a pro-rata basis. Thus, the QGF shares of each QGF Contract owner will be exchanged for the number of full and fractional shares of SIF which, when multiplied by the net asset value per share of SIF, will have an aggregate net asset value equal to the aggregate net asset value of that Contract owners' shares in QGF at the Effective Time on the Closing Date. The Fund will register the shares of QGF issued in the transaction under the Securities Act of 1933 on Form N-14.

12. In addition to the Fund transactions, VALIC and AG Life each intends to make conforming changes to certain Divisions of its respective Separate Account that invests in QGF and SIF.

Specifically, VALIC intends to combine Division 9C of VALIC Separate Account A, which currently invests in QGF, into Division 10, which currently invests in SIF. In addition, following the proposed combination, VALIC intends to rename Divisions 3, 9A and 9B, each of which currently invests in QGF, correspondingly Divisions 10D, 10A and 10B, each of which will invest in SIF.

AG Life intends to combine Division 37 of AG Life's Separate Account A, which currently invests in SIF, into Division 36, which currently invests in QGF but will invest in SIF following the proposed combination. Division 37

currently has only two Contract owners as compared to over 2300 Contract owners in Division 36. Therefore, AG Life will merge Division 37 into Division 36. Immediately after the proposed combination of QGF into SIF, Divisions 9C and 37 (the "disappearing divisions") will transfer their respective assets and liabilities to Divisions 10 and 36, respectively (the "surviving divisions"). In exchange therefore, each surviving division will issue to the corresponding disappearing division a number of units of interest having an aggregate unit value equal to the value of the aggregate net assets of the disappearing division acquired.

In accordance with section 22(c) of the Act rule 22c-1 thereunder, the number of full and fractional units of interest of the surviving divisions to be issued will be determined on the basis of the relative unit values of the surviving and disappearing divisions calculated immediately after the Effective Time on the Closing Date. The unit values of each Division will be determined in accordance with the procedures set forth in the VALIC or AG Life prospectuses and statements of additional information.

Each disappearing division will then allocate or attribute to its Contract owners units of interest in the corresponding surviving division in exchange for units of interest of the disappearing Division, on a pro-rata basis. Thus, the units of interest of each Contract owner in a disappearing division will be exchanged for the number of full and fractional units of interest of a surviving division which will have an aggregate unit value equal to the aggregate unit value of that Contract owner's units of interest in the disappearing division immediately after the Effective Time on the Closing Date.

13. On January 8, 1982, the Fund's Board of Directors met and adopted a resolution to submit the proposed combination for Contract owner approval at a meeting to be held on April 28, 1992.<sup>2</sup> Consistent with the Fund's Articles of Incorporation and the Maryland General Corporation Law, the proposed combination will not take effect unless the proposed amendment is approved by the affirmative vote of at least a majority of the outstanding shares of QGF. VALIC and its Separate Account A and AG Life and its Separate Account A each will vote the shares of QGF that it then holds in accordance with instructions solicited and received

<sup>1</sup> Applicants represent that, during the Notice Period, the application will be amended to confirm that the merger occurred on December 31, 1991.

<sup>2</sup> Applicants represent that, during the Notice Period, the Application will be amended to confirm this representation.



from Contract owners. This will be true for both shares attributed and not attributed to Contracts. No Contract owner vote is required for the Separate Account changes.

14. VALIC will pay all expenses of the Fund attributable to the proposed combination. VALIC and AG Life each will bear its respective expenses with respect to the combinations involving their respective separate accounts, except that VALIC will bear the entire expense of the application.

15. The proposed combination will not in any way affect the net asset value of SIF shares or the VALIC and AG Life Contract values, unit values, or interests of Contract owners invested indirectly in SIF. The aggregate value of SIF shares attributable to Contract owners previously holding QGF shares will be the same immediately after the proposed combination as the aggregate value of QGF shares attributable to such Contract owners immediately before the proposed combination.

16. To the extent additional options are available under the VALIC and AG Life contracts, QGF Contract owners will have an opportunity to reallocate accumulated monies without charge, to any of the other portfolios or to any available fixed account alternative, prior to or after the consummation of the proposed combination.

17. In addition to Contract owner approval, the consummation of the combination is conditioned upon receipt from the Commission of the order requested herein and receipt by the Fund of an opinion of tax counsel to the effect that the combination will qualify as a tax-free reorganization under the Code, and not result in the recognition of any gain or loss to SIF or QGF, or to any Contract owner of the Fund.

#### Applicants' Legal Analysis and Conditions

1. The Fund requests that the Commission issue an order pursuant to section 17(b) or, alternatively section 6(c), of the Act exempting the proposed combination of QGF into SIF from the provisions of section 17(a)(1) and 17(a)(2) of the Act to the extent necessary to permit SIF to acquire substantially all of the assets of QGF in exchange for shares of SIF. VALIC and its Separate Account A and AG Life and its Separate Account A each requests that the Commission issue an order pursuant to section 17(b), or alternatively section 6(c), of the Act exempting its proposed combination from the provisions of sections 17(a)(1) and 17(a)(2) of the Act to the extent

necessary to permit VALIC and AG Life each to combine SIF and QGF divisions.<sup>3</sup>

2. QGF and SIF, Divisions 9C and 10 of VALIC Separate Account A and Divisions 36 and 37 of AG Life's Separate Account A may be deemed to be separate investment companies for purposes of sections 17(a)(1) and 17(a)(2) of the Act.

3. VALIC, through its Separate Account A, and AG Life through its Separate Account A, each owns of record more than 5% of the outstanding voting securities of QGF. VALIC, through its Separate Account A owns of record more than 5% of the outstanding voting securities of SIF. In addition, VALIC, AG Life and other insurance companies owned by AGC own of record in the aggregate all of the outstanding voting securities of QGF and SIF. Accordingly, QGF and SIF may be deemed to be under common control of AGC and, therefore, an affiliated person of each other.

4. In addition, because VALIC is the investment adviser of QGF and SIF, and because VALIC, through its Separate Account A, owns more than 5% of the outstanding voting securities of QGF and of SIF, each Fund may be deemed to be an affiliated person of an affiliated person (i.e. VALIC) of the other.

5. VALIC owns all of the assets of its Separate Account A and is the depositor of the Separate Account. As a result of these relationships, Division 9C and 10 may each be deemed to be an affiliated person of the other or an affiliated person of an affiliate of the other. Similarly, AG Life owns all of the assets of its Separate Account A and is the Depositor for the Separate Account. As a result of these relationships, Divisions 36 and 37 may each be deemed to be an affiliated person of the other or an affiliated person of an affiliated person of the other.

6. Section 17(b) of the Act authorizes the Commission to issue an order exempting transactions prohibited by sections 17(a)(1) and 17(a)(2) of the Act, upon application, if the evidence establishes that:

(1) The terms of the proposed

<sup>3</sup> The Commission staff has on several occasions taken "no action" positions with regard to a life insurance company depositor of a unit investment trust separate account proceeding with a transaction substantially identical to the proposed reorganization without a Section 26(b) order. See, e.g., The Prudential Insurance Company of America (pub. avail. July 18, 1986); Connecticut General Life Insurance Company (pub. avail. Oct. 3, 1985). Applicants are relying on these letters and are not requesting the Commission to approve or disapprove their decision to proceed without an order pursuant to Section 26(b).

transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned;

(2) The proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under the Act; and

(3) The proposed transaction is consistent with the general purposes of the Act.

7. The Fund represents that the terms of the proposed combination, including the consideration to be paid and received, as described in this application, are reasonable and fair and do not involve overreaching on the part of any person concerned. The Fund also represents that the proposed combination is consistent with the policies of SIF and QGF, as recited in the Fund's current registration statement and reports filed under the Act, and with the general purposes of the Act.

8. Applicants believe that the exemption provided by rule 17a-8 may not be available to them to the extent that SIF and QGF, and the respective Separate Account A divisions are not affiliated with each other solely by the reasons specified in the Rule. Nevertheless, Applicants submit that the proposed combinations are each consistent with the standards and conditions of rule 17a-8, as applicable.

9. The Board of Directors of the Fund, including a majority of the disinterested trustees, has reviewed and approved in principle the terms of the proposed combination. The Board has also independently determined for SIF and QGF that the proposed combination will be in the best interests of Contract owners and that those interests will not be diluted as a result of effecting the proposed combination.

10. The Fund expects the proposed combination to result in certain benefits for QGF and SIF Contract owners. Since inception in 1987 and for a recent 12-month period, SIF's total investment return has been higher than that of QGF. The proposed combination will result in a substantial increase in the asset size of SIF. SIF, as of May 1, 1991, will have net assets of approximately \$577 million after the proposed combination, as compared with net assets of approximately \$84 million before the proposed combination. The Fund expects that, to the extent that certain expenses remain relatively fixed and do not vary with asset size, this increase in SIF's size may result in some economies



of scale over those existing separately for either SIF or QGF. Thus, Contract owners of both funds may expect some decrease in relative expenses levels as a result of the proposed combination. The proposed combination will benefit QGF Contract owners by resulting in a lower investment advisory fee. Finally, the proposed combination will enable certain QGF Contract owners, who cannot do so under their existing contracts, to invest in SIF, an index fund.

11. The Fund believes that the investment objective of QGF Contract owners can be better achieved by participating in SIF, an index fund, rather than QGF, a managed fund. The Fund also believes that an index fund offers a more clearly defined investment policy and that it can be managed more efficiently than a managed fund.

Although not identical, the investment objectives of SIF and QGF are quite compatible, in that each has an investment objective of growth over an extended period of time and each invests principally in equity securities. QGF Contract owners will experience no substantial change in investment objective in becoming SIF Contract owners. To the extent QGF Contract owners will experience any such change, it will be subject to their prior approval. Any such change in investment objective that QGF Contract owners will experience will be clearly disclosed in a proxy statement to them. To the extent that any QGF portfolio asset is not consistent with SIF's investment objective upon effecting the combination, VALIC will bear the cost of SIF's liquidating such security.

12. The proposed combination will not in any way affect the net asset value of SIF shares or the Contract values, unit values, or interests of Contract owners invested indirectly in SIF. Under the Plan, the transfer of QGF's assets to SIF and the issuance of shares of SIF in exchange therefore will be made on the basis of the aggregate value of those shares on the exchange date in conformity with section 22(c) of the Act and rule 22c-1 thereunder. The aggregate value of SIF shares attributable to Contract owners previously holding QGF shares will be the same immediately after the proposed combination as the aggregate value of QGF shares attributable to such Contract owners immediately before the proposed combination. Furthermore, the Fund believes that the proposed combination will not give rise to any tax liability or to any adverse tax consequences to the Fund, QGF, SIF or Contract owners.

13. Finally, VALIC will bear all of the costs of the proposed combination. As a result of all of the above, the proposed combination will not dilute the interests of Contract owners invested in QGF or SIF at the Effective Time of the proposed combination.

14. The Fund's proposed combination is consistent with the general purposes of the Act as stated in the Findings and Declaration of Policy in section 1 of the Act. The proposed combination does not present any of the conditions or abuses that the Act was designed to mitigate or eliminate. In particular, section 1(b)(6) of the Act states that the national public interest and the interests of investors are adversely affected when investment companies are reorganized without the consent of their security holders. As described above, the proposed combination must receive the approval of a majority of the outstanding shares of QGF (those shares being voted in proportion to the instructions received from variable annuity contract interests in QGF). QGF Contract owners will receive a notice of the special meeting of the Fund's shareholders and a proxy statement containing all material disclosures, including a copy of the Plan. The proposed combination is therefore consistent with the general purposes of the Act.

15. VALIC and its Separate Account A and AG Life and its Separate Account A each represents that the terms of its proposed combination, including the consideration to be paid and received, as described in the application, and reasonable and fair, do not involve overreaching on the part of any person concerned, and will not dilute the interests of Contract owners. Each such applicant also represents that its proposed combination will be consistent with the policies of each division as recited in each Separate Account's current registration statement and reports filed under the Act and with the general purposes of the Act, the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Each such applicant further represents that the proposed combination will result in benefits to Contract owners and will be in their best interests.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3940 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18550; 812-7755]

# Short-Term Investments Co., et al.; Application

February 13, 1992.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application for exemptive order under the Investment Company Act of 1940 (the "Act").

**APPLICANTS:** Short-Term Investments Co., AIM Equity Funds, Inc., AIM Convertible Securities, Inc., AIM High Yield Securities, Inc., AIM Investment Securities Funds, Inc., AIM Summit Fund, Inc., all future series of the foregoing investment companies for which AIM Advisors, Inc. ("AIM Advisors") or AIM Capital Management, Inc. ("AIM Management") serves as investment adviser or sub-adviser (collectively, the "Funds"); all future investment companies and their series that in the future are managed or advised by AIM Advisors or AIM Management; and AIM Advisors and AIM Management, the investment adviser or subadviser to the Funds ("Advisers").

**RELEVANT ACT SECTIONS:** Exemptive order requested under section 17(d) of the Act and rule 17d-1 thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order that would permit the Funds to deposit uninvested cash balances into one or more joint trading accounts, the daily balances of which would be used to enter into repurchase agreements or commercial paper. Applicants seek to establish five joint accounts: (1) The Treasury Joint Account; (2) the Agency Joint Account; (3) the Stripped Government Obligations Joint Account; (4) the Mortgage-backed Obligations Joint Account; and (5) the Commercial Paper Joint Account.

**FILING DATE:** The application was filed on July 18, 1991 and amended on December 10, 1991 and February 3, 1992.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 9, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a



hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, AIM Advisors, Inc., Eleven Greenway Plaza, site 1919, Houston, Texas 77046. Attention: Carol F. Relihan, Esquire.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicants' Representations

1. Each of the Funds is a registered open-end management investment company. Several of the Funds consist of multiple investment portfolios ("Series"), each of which has separate investment objectives and segregated assets.

2. Each of the Funds and their Series (collectively, "Portfolios") may wish to deposit overnight cash balances and reserves into one or more of five joint trading accounts, the daily balances of which would be used to invest in commercial paper or one or more repurchase agreements with a bank (including a Fund's custodian bank), a non-bank government securities dealer or a major brokerage house, as the case may be. Currently, such overnight cash balances and reserves are separately invested daily in purchases of various overnight investment vehicles in order to earn additional income for each Portfolio.

3. Applicants seek to establish five joint accounts in order to tailor the investments of the different Portfolios to specific types of securities, consistent with their investment policies. To avoid the need to seek exemptive relief in the future, applicants seek to establish four separate repurchase agreement joint accounts (in addition to the commercial paper joint account), although only one, the Treasury Joint Account, will be used at the present. It is contemplated that the other repurchase agreement joint accounts will be used following the establishment of one or more future series of a Portfolio or of any future investment company that is managed or advised by the Advisers that may have investment policies permitting the participation in one of such other repurchase agreement joint accounts. Only the accounts described herein will

be established pursuant to the exemptive order.

4. The joint accounts would not be distinguishable from any other account maintained by a Portfolio with its custodian bank or a designated sub-custodian except that monies from each Portfolio would be deposited in the custodian bank on a commingled basis. The accounts would not have any separate existence which would have indicia of a separate legal entity. The sole function of the accounts would be to provide a convenient way of aggregating what otherwise would be one or more individual daily transactions for the Portfolios necessary to manage their respective daily uninvested cash balances.

5. Each Portfolio is authorized by its investment policies and restrictions to invest in repurchase agreements and has established certain systems and standards that comply with the requirements regarding repurchase agreements set forth by the Commission in its published releases, guidelines, and interpretations.

6. Each of the Portfolios participating in a proposed joint account would participate in that account on the same basis as every other participating Portfolio, and in conformity with each Portfolio's fundamental investment objectives, policies, and restrictions. The Advisers would have no monetary participation in any joint account but would be responsible for investing monies in the accounts, establishing accounting and control procedures, ensuring the equal treatment of each Portfolio, and ensuring that the assets of the Portfolios would continue to be held under proper bank custodial procedures.

7. At the end of each trading day, applicants expect that most Portfolios would have uninvested cash balances in their accounts at their custodial banks that would not otherwise be invested in portfolio securities by the Advisers. Generally, such assets are invested in short-term liquid assets in order to provide liquidity and earn additional income for each Portfolio. Presently, the Advisers must purchase such instruments separately on behalf of each individual Portfolio, resulting in certain inefficiencies and increased costs and limiting the return which some or all of the Portfolios could otherwise achieve.

8. The joint accounts only would invest in short-term investments with an overnight, over-the-weekend, or over-the-holiday maturity. The Portfolios only would invest assets in the joint accounts that, in the absence of the joint accounts, would be invested in short-term liquid assets. A Portfolio's decision to use a joint account would be on the

basis of the same factors as the Portfolio's decision to make any short-term liquid investment. These factors primarily would be the yield, creditworthiness, and liquidity of the contemplated investment.

9. A Portfolio's decision to participate in a joint account would be solely at the option of the Portfolio. A Portfolio would not be required to maintain a minimum balance in a joint account and would be permitted to withdraw all or any portion of its investment in a joint account at any time. Therefore, in the opinion of applicants, any Portfolio's investment in a joint account would not be subject to the claims of creditors, whether brought in bankruptcy, insolvency, or other legal proceeding, of any other participant Portfolio in a joint account. Moreover, each Portfolio's liability on any repurchase agreement or commercial paper, as the case may be, purchased by a joint account would be limited to its interest in such repurchase agreement or commercial paper.

10. The procedures set forth below describe current practices of the Portfolios of Short-Term Investments Co., which practices the Treasury Joint Account would follow in all material respects with respect to investments in repurchase agreements. Each morning the money market trading desk begins negotiating the interest rate for repurchase agreements for that day and agrees on the securities required as collateral. The estimated amount of the required collateral is based on preliminary information supplied by the Funds' accounting department indicating the amount of the current day's available cash. This projection may be adjusted during the day to reflect any additional amounts which become available. In the normal course, most purchases of repurchase agreements are complete by 9:30 a.m., with an occasional agreement being finalized later in the day.

11. Each repurchase agreement would be entered into by calling a U.S. bank, a non-bank primary U.S. government securities dealer, or a major brokerage house and indicating the rate of interest and size of the desired repurchase agreement. Particular securities to be held as collateral by a Portfolio would then be identified and the respective custodian would be notified. The securities either would be wired to the account of such custodian at the proper Federal Reserve Bank, transferred to a sub-custodian account of the Portfolios at another qualified bank, or redesignated and segregated on the records of the custodian if that custodian is already the record holder of



the collateral for the repurchase agreement. This procedure would occur on almost every trading day for each of the Portfolios that wishes to enter into repurchase agreements.

12. The Treasury Joint Account only would enter into repurchase agreements collateralized by U.S. Government obligations, *i.e.*, obligations guaranteed as to principal and interest by the government of the United States. The Agency Joint Account only would enter into repurchase agreements collateralized by obligations issued or guaranteed as to principal and interest or otherwise backed by any of the agencies or instrumentalities of the U.S. Government. The Stripped Government Obligations Joint Account only would enter into repurchase agreements collateralized by certain obligations of the U.S. Government in the form of separately traded principal and interest components of securities issued or guaranteed by the U.S. Treasury. The Mortgage-Backed Obligations Joint Account only would enter into repurchase agreements collateralized by certain U.S. government agency securities such as mortgage-backed certificates issued by the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation, representing ownership interests in mortgage pools.

13. Any joint repurchase agreement transaction entered into through the proposed joint trading accounts would comply with the standards and guidelines set forth in Investment Company Act Release No. 13005 (Feb. 3, 1983) and with any other existing and future positions taken by the Commission or its staff by rule, release, letter, or otherwise relating the joint repurchase agreement transactions.

14. With respect to the four repurchase agreement joint accounts, applicants believe that the participating Portfolios would earn a higher return than in an individually maintained account because it is possible to negotiate a greater rate of return on a large repurchase agreements than on smaller repurchase agreements. Also, applicants assert that the participating Portfolios could collectively save approximately \$97,000 in yearly transaction fees at present asset levels.

15. The Commercial Paper Joint Account only would invest in interest bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers. All commercial paper purchased by the Commercial Paper Joint Account would be rated in the highest category by Standard & Poor's or Moody's or, if

unrated, be of equivalent investment quality as determined by the Advisers under the supervision of the Boards of the applicable Funds. All such investments would satisfy the investment criteria of any participating Portfolio as to yield, quality, and liquidity.

16. All of the Portfolios, except the Treasury Portfolio, Treasury Tax Advantage Portfolio, and Limited Maturity Treasury Portfolio series of Short-Term Investments Co. are authorized by their investment policies and restrictions to invest in commercial paper.

17. Currently, each Portfolio that is permitted to invest in commercial paper follows the procedures below when investing in commercial paper. Except as noted, the Commercial Paper Joint Account would follow similar procedures. During the morning, the money market trading desk operated by the Advisers on behalf of the Portfolios contacts various dealers of commercial paper. Once the exact amount to be invested in commercial paper for each Portfolio is determined, purchases of commercial paper are made. Occasional purchases are made later in the day. The Commercial Paper Joint Account would purchase interest bearing or discounted commercial paper.

18. Overnight commercial paper matures and pays interest daily. Commercial paper generally pays a higher rate of interest than repurchase agreements secured by U.S. government obligations, although this higher yield is generally accompanied by a higher degree of risk. Applicants manage the higher risk by investing only in commercial paper rated in the highest category. The one-day maturity of the commercial paper that would be eligible for the Commercial Paper Joint Account also mitigates the credit risk of such investments. By investing only in commercial paper rated in the highest category, the existence of the Commercial Paper Joint Account would not increase the investment risk of any of the Portfolios inasmuch as all commercial paper in which the Commercial Paper Joint Account invested would be eligible for investment by such Portfolios.

19. Commercial paper transaction fees are payable on a per transaction basis. The fees are not related to the size of the transaction. The Commercial Paper Joint Account would permit participating Portfolios to enter into such transactions collectively and thus, by reducing the overall number of transactions entered into by each participating Portfolio, generate savings to each such Portfolio.

20. With respect to all of the Portfolios except the Treasury Portfolio, Treasury Tax Advantage Portfolio, and Limited Maturity Treasury Portfolio of Short-Term Investments Co., the portfolio manager for each Portfolio would determine whether to invest the assets of the Portfolio designated for short-term liquid investments in repurchase agreements or commercial paper. This decision would be based on the yield and liquidity of the repurchase agreement and the creditworthiness of the issuer of the repurchase agreement in comparison to commercial paper. The decision to invest in commercial paper or repurchase agreements would determine whether the Commercial Paper Joint Account or the Treasury Joint Account (or such other repurchase agreement joint account as may be appropriate) are used. The existence of the joint accounts would not affect the decision of whether to invest in repurchase agreements or commercial paper except to the extent a joint account had available to it a repurchase agreement or commercial paper which was not otherwise available to a particular Portfolio and, on the basis of yield, creditworthiness and liquidity, offered a competitive investment.

#### Applicants' Legal Analysis

1. Each Portfolio, by participating in the proposed joint accounts, and the Advisers, by managing the proposed joint accounts, could be deemed to be "a joint participant" in a transaction within the meaning of section 17(d)(1) of the Act. In addition, the proposed account could be deemed to be a "joint enterprise or other joint arrangement" within the meaning of rule 17d-1 under the Act.

2. The joint accounts would save the Portfolios certain transaction fees, allow the Portfolios to negotiate higher rates of return, and reduce the possibility of error by reducing the number of trade tickets.

3. On the basis of the information considered by each Board, the trustees/directors of the Funds are satisfied that the proposed method of operating the joint accounts would not result in any conflicts of interest among the joint participants. The Boards have determined that the operation of the joint accounts would be free of any inherent bias favoring one Portfolio over another, and the anticipated benefits flowing to each Portfolio would fall within an acceptable range of fairness.

4. The Boards considered the fact that although the Advisers can gain some benefit through administrative convenience and some possible



reduction in clerical costs, the primary beneficiaries would be the participating Portfolios and their shareholders since the joint accounts may earn higher returns for the Portfolios and would be a more efficient means of administering daily investment transactions.

5. Future investment companies for which the Advisers serve as investment adviser or sub-adviser would be permitted to participate in a joint account only on the same terms and conditions as the existing Portfolios have set forth herein.

6. Applicants conclude that, for the reasons set forth in the application as summarized above, the granting of the requested order would be consistent with the provisions, policies and purposes of the Act, and that participation in the proposed joint trading accounts by each Portfolio would not be on a basis different from or less advantageous than that of any other Portfolio participants. Applicants also conclude that the participation by the Advisers would be ministerial only, so that the criteria for issuance of an order under section 17(d) of the Act and rule 17d-1 thereunder are met.

#### Applicants' Conditions

Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. A separate custodial cash account would be established for each joint account at the applicable custodian bank into which each qualifying participating Portfolio would cause some or all of its uninvested net cash balances intended for short-term liquid investments to be deposited daily. Each Fund that has as custodian a bank other than the bank at which the proposed joint accounts would be maintained and that wished to participate in a joint account would appoint the latter bank as a sub-custodian for the limited purpose of receiving cash for deposit into the proposed joint account.

2. Cash in each joint account would be invested solely in repurchase agreements collateralized by the specific type of obligations permitted as collateral by the specific joint account, as described above, or commercial paper, as the case may be, and no Portfolio would be permitted to invest in any joint account unless the investments of such joint account satisfied the policies and guidelines of that Portfolio concerning repurchase agreements or commercial paper. Any such repurchase agreement or commercial paper would have, with rare exceptions, an overnight or over-the-weekend duration, and in no

event would it have a duration of more than seven days.

3. All investments held by a joint account would be valued on an amortized cost basis.

4. Each participating Portfolio, subject to an exemptive order permitting valuation of its securities on the basis of amortized cost or relying upon rule 2a-7 under the Act for that purpose, would use the average maturity of the joint account for the purpose of computing that Portfolio's average portfolio maturity with respect to the portion of its assets held in such account on that day.

5. In order to assure that there would be no opportunity for one Portfolio to use any part of a balance of a joint account credited to another Portfolio, no Portfolio will be allowed to create a negative balance in the joint account for any reason, although it would be permitted to draw down its entire balance at any time. Each Portfolio's decision to invest in a joint trading account would be solely at its option, and no Portfolio will be obligated either to invest in an account or to maintain any minimum balance in an account. In addition, each Portfolio would retain the sole rights of ownership to any of its assets invested in the joint account, including interest payable on such assets invested in such account. Finally, each Portfolio's investment in a joint account will be documented daily on the books of the Portfolio as well as on the books of the Portfolio's respective custodian bank.

6. Each Portfolio would participate in the income earned or accrued in a joint account and all instruments held in the joint account (i.e., cash and U.S. government securities, or commercial paper, as the case may be) on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

7. The Advisers would administer the investment of the cash balances in and operation of the joint accounts as part of their duties under the general terms of each Portfolio's existing or any future investment advisory contract or sub-advisory contract ("Advisory Contracts") and would not collect any additional or separate fees for the management of the joint accounts. The operation of the joint accounts is not provided for specifically under each Portfolio's Advisory Contract, but rather is covered under the general terms of each contract. The Advisers would collect their fees based upon the assets of each separate Portfolio as provided in each respective Advisory Contract.

8. The administration of the joint accounts would be within the fidelity

bond coverage required by section 17(g) of the act and rule 17g-1 thereunder. The Portfolios currently are insured under a joint fidelity bond.

9. The Boards of each of the Funds and of any future investment companies and their series that in the future are managed or advised by AIM Advisors or AIM Management that are participating in any joint account would evaluate the joint account arrangements annually and would continue participation in the accounts only if they were to determine that there was a reasonable likelihood that the participating Portfolio and its shareholders would benefit from continued participation.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-3885 Filed 2-19-92; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement: Delaware County, PA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a park/ride lot proposed to facilitate transit and intermodal travel as part of Interstate 476 (the Mid-County Expressway), in Radnor Township, Delaware County, Pennsylvania.

**FOR FURTHER INFORMATION CONTACT:** Philibert A. Ouellet, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086; Telephone (717) 782-3461 or Timothy O'Brien, Project Manager, Pennsylvania Department of Transportation, District 6-0, 200 Radnor-Chester Road, St. Davids, Pennsylvania 19087; Telephone (215) 964-6611.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Pennsylvania Department of Transportation, will prepare an Environmental Impact Statement (EIS) on a proposal for construction of a park/ride facility in Radnor, Pennsylvania. The site is at the confluence of: (1) Interstate 476; (2) AMTRAK rail line (which carries the R5 commuter rail line) operated by Southeastern Pennsylvania Transportation Authority (SEPTA), and



(3) SEPTA's R100 High Speed Line. This location creates opportunities to accommodate and to facilitate mass transit and intermodal travel with the region's Interstate network. The proposed project includes study of construction alternatives for: New parking for transit users (from I-476 and from the local street system); interchanges for direct access between parking and I-476; and a rail station complex. The No Build alternative will also be studied.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State and local agencies, and to private organizations and individuals who have previously expressed, or are known to have, an interest in the proposal.

An initial public meeting will be scheduled for early 1992. Additional public meetings will be held throughout the EIS development. A Public Hearing will be held after the Draft EIS has been completed, and concurrent with the period provided for agencies and the public to review this document. Notices will be provided for the dates, times and locations of these meetings and of the Public Hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: February 10, 1992.

George L. Hannon,

Assistant Division Administrator, Federal Highway Administration, Harrisburg, Pennsylvania.

[FR Doc. 92-3911 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-22-M

### Environmental Impact Statement; Pulaski and Saline Counties, AR

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Pulaski and Saline Counties, Arkansas.

**FOR FURTHER INFORMATION CONTACT:** H.C. Wieland, Division Administrator, Federal Highway Administration, 3128 Federal Office Building, Little Rock, Arkansas, 72201, or Lynn Malbrough, Ecologist II, Environmental Division, Arkansas State Highway and Transportation Department, P.O. Box 2261, Little Rock, Arkansas 72203, Telephone: (501) 569-2281.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Arkansas State Highway and Transportation Department, had originally decided to prepare an environmental impact statement (EIS) on a proposal to widen Interstate 30 from four lanes to six lanes and to construct interchange and frontage road modifications on this controlled access facility. The project will serve central Arkansas, including Pulaski and Saline Counties, as well as interstate traffic utilizing Interstate 30. The Notice of Intent to prepare the EIS was published on August 7, 1991.

Alternatives to be considered are: (1) The "Do-Nothing" Alternative where roads are constructed according to the regional plan with the exception of the proposed facility; (2) the "Two-Way Frontage Road" Alternative which includes the Interstate 30 widening plus modification of the interchanges, ramps and frontage roads to eliminate the slip ramps between the main lanes and the two-way frontage roads; and (3) the "One-Way Frontage Road" Alternative which includes the Interstate 30 widening plus modification of the interchanges, ramps and frontage roads to provide one-way traffic movement on the frontage road. Various design schemes are being studied to accomplish the design goals associated with two-way or one-way frontage road traffic movements under these two basic alternatives.

Since the publication of the Notice of Intent, several public informational meetings have been held as part of the scoping and public involvement processes. As a result of these meetings and preliminary environmental studies, major impacts will be associated with the safety of the highway system, traffic capacity, relocation of businesses, and related economic disruption. The extent of impact on these resources or features is not considered to be significant. Therefore an EIS will not be prepared. If continuing environmental studies determine that a feature will be significantly impacted, an EIS will be prepared. The results of the environmental studies will be contained in an Environmental Assessment which will be available prior to a public

hearing. Comments or questions concerning this decision should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program.)

Issued on: January 30, 1992.

Carl Kraehmer,

Environmental and Design Specialist, Little Rock, Arkansas.

[FR Doc. 92-3912 Filed 2-19-92; 8:45 am]

BILLING CODE 4910-22-M

### DEPARTMENT OF THE TREASURY

#### Bureau of Alcohol, Tobacco and Firearms

#### Granting of Relief, Federal Firearms Privileges

**AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF).

**ACTION:** Notice of granting of restoration of Federal firearms privileges.

**SUMMARY:** The persons named in this notice have been granted restoration of their Federal firearms privileges by the Director, Bureau of Alcohol, Tobacco and Firearms.

As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

**FOR FURTHER INFORMATION CONTACT:** Special Agent in Charge Karl Stankovic, Firearms Enforcement Branch, Firearms Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-927-7770).

**SUPPLEMENTARY INFORMATION:** In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted restoration of Federal firearms privileges with respect to the acquisition, transfer, receipt, shipment, or possession of firearms. These privileges were lost by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year or because they otherwise fell within a category of persons prohibited by Federal law from acquiring, transferring, receiving, shipping or possessing firearms.

It has been established to the Director's satisfaction that the circumstances regarding the applicants' disabilities and each applicant's record and reputation are such that the



applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the restoration will not be contrary to the public interest.

The following persons have been granted restoration:

*Bankston, Bobby Gene* 105 Hollis Avenue, Newton, Alabama, convicted on September 9, 1980, in the Dale County Court, Ozark, Alabama.

*Barthel, Timothy Michael* W3884 Tunnel Road, Belleville, Wisconsin, convicted on November 12, 1982, in the Circuit Court of Kenosha County, Wisconsin.

*Berryhill, Howard Douglas* 417 Julia Street, Apartment 214, Huntsville, Alabama, convicted on February 17, 1976, in the United States District Court, Northern District of Alabama, Huntsville, Alabama.

*Biram, Roy Gene* Post Office Box 189, Campton, Kentucky, convicted on March 4, 1981, in the Clermont County Circuit Court, Batavia, Ohio.

*Bolling, Lawrence Junior* Route 3, Box 18, Wise, Virginia, convicted on December 30, 1986, in the United States District Court, Western District of Virginia, Roanoke, Virginia.

*Brekhus, Henry Hartman* 1046 G Avenue, Douglas, Arizona, convicted on October 16, 1987, in the United States District Court, Southeastern Division, Fargo, North Dakota.

*Brooks, Alfred Senior* 3011 West Philadelphia, Detroit, Michigan, convicted on January 11, 1973, in the United States District Court, Eastern Judicial District of Michigan, Detroit, Michigan.

*Brooks, Thomas Norman* Route 1, Box 70, Carthage, Leake County, Mississippi, convicted on August 22, 1985, in the Southern Judicial District Court of Mississippi, Jackson, Mississippi.

*Bull, Dennis Wayne* 1370 South Fork Road, Glasgow, Kentucky, convicted on November 16, 1987, in the United States District Court in Bowling Green, Kentucky.

*Burnett, Richard Alan* 3320 Yucaton Street, Lake Wales, Florida, convicted on December 20, 1971, in the Palk County Circuit Court, Bartow, Florida.

*Bursaw, Jeffrey Wayne* 424 Goldsmith Street, Chippewa Falls, Wisconsin, convicted on January 8, 1987, in the Circuit Court of Eau Claire County, Wisconsin.

*Butteris, Scott Allan* 502 South Iowa Street, Dodgeville, Wisconsin, convicted on December 22, 1981, in the Circuit Court, Branch IV, Rock County, Wisconsin.

*Byrd, Houston Junior* 921 Shady Lane, Oakdale, Louisiana, convicted on May

3, 1985, in the United States District Court, Western District of Louisiana.

*Cardinale, Norman Alexander* 42 Water Valley Road, Hope, Rhode Island, convicted on February 5, 1985, in the United States District Court, Winston-Salem, North Carolina.

*Champion, Larry Brantley* Route 3, Box 141, Smithland, Kentucky, convicted on August 24, 1965, August 1, 1986, and also on November 17, 1986, in the Livingston County Court, Smithland, Kentucky.

*Chappell, Carlton Christopher* 501 Chestnut Street, Boscobel, Wisconsin, convicted on September 28, 1984, in the Grant County Circuit Court, Boscobel, Wisconsin.

*Churchwell, Billy Joe* 1049 Farm to Market Road, Mt. Vernon, Washington, convicted on April 27, 1973, in the United States District Court, Western District of Seattle, Washington.

*Dennison, Jasper Irvin* Route 1, Box 2612, Santa Rosa Beach, Florida, convicted on October 20, 1981, in the United States District Court, Jacksonville, Florida.

*Downs, Richard Gene* 4112 Riedley Court, Louisville, Kentucky, convicted on October 27, 1983, in the Jefferson County Court, Louisville, Kentucky.

*Dummer, Thomas John* N6775 CTH XX, Holmen, Wisconsin, convicted on January 20, 1988, in the LaCrosse County Circuit Court, LaCrosse, Wisconsin.

*Dvorak, Vernon Dale* N998 Trout Road, Antigo, Wisconsin, convicted on August 29, 1985, in the Langlade County Circuit Court, Antigo, Wisconsin.

*Ellison, Richard Dean* Rural Route 2, Box 86, Norris City, Illinois, convicted on September 15, 1980, in the United States District Court of New Mexico, Albuquerque, New Mexico.

*Esser, James Richard* 8391 Veedum Street, Pittsville, Wisconsin, convicted on July 13, 1981, in the Circuit Court, Branch Two, Wood County, Wisconsin.

*Falbo, John Michael* 100 5th Avenue, Montgomery, West Virginia, convicted on August 21, 1986, in the United States District Court, Southern District of West Virginia, Charleston, West Virginia.

*Fancher, David Timothy* Route 2, Box 139-B, McCool, Mississippi, convicted on October 4, 1988, in the United States District Court, Northern District of Mississippi, Oxford, Mississippi.

*Frederick, Danny Ray* 7184 Ransdorp, Memphis, Tennessee, convicted on December 4, 1981, in the United States District Court, Western District of Tennessee.

*Free, David Alan* 514 Clark Street, Granton, Wisconsin, convicted on February 12, 1986, in the Clark County Circuit Court, Neillsville, Wisconsin.

*Gardone, Frank Daniel* 1037 Campbells Run Road, Carnegie, Pennsylvania, convicted on May 20, 1963, in the United States District Court, Washington, DC.

*Garvey, John Lawrence* 3022 Sheffield Drive, Norristown, Pennsylvania, convicted on September 26, 1988, in the United States District Court, Philadelphia, Pennsylvania.

*Hamm, Randolph James* N988 Hemlock Drive, Medford, Wisconsin, convicted on December 18, 1978, and also on December 30, 1985, in the Circuit Court of Taylor County, Wisconsin.

*Hedrick, James Harold* 2437 Hampton Place, Fort Mitchell, Kentucky, convicted on March 14, 1985, in the United States District Court, Middle Judicial District of Tennessee.

*Hines, Finnie Durant* 80 East 110th Street, New York City, New York, convicted on August 9, 1977, in the United States District Court, District of Maryland.

*Hoskins, Gobel LaVerne* 2127 Northwest Lake, Lawton, Oklahoma, convicted on May 11, 1988, in the United States District Court, Western District of Oklahoma.

*Incorporated, L.A.R. Manufacturing* 4133 West Farm Road, West Jordan, Utah, convicted on January 24, 1991, in the United States District Court, Central Division of the Judicial District of Utah, Salt Lake City, Utah.

*Johnson, Paul David* General Delivery, Fillmore, Kentucky, convicted on June 4, 1981, in the United States District Court, Eastern Judicial District, London, Kentucky.

*Key, Terrance Scott* Highway 89, Post Office Box 382, Darrien, Wisconsin, convicted on February 16, 1983, in the Circuit Court of Walworth County, Wisconsin.

*Koberle, Tommy James* 5205 Milwaukee Street, Madison, Wisconsin, convicted on May 14, 1984, in the Circuit Court of Dane County, Wisconsin.

*Kraszewski, John Stanley* 3916 Liberty Avenue, Pittsburgh, Pennsylvania, convicted on August 30, 1984, in the Court of Common Pleas, Allegheny County, Pittsburgh, Pennsylvania.

*Lowrey, Mickey Sumner* 1316 Springbrook, Mesquite, Texas, convicted on May 17, 1985, in the Two-hundredth and twenty-first Judicial District Court of Dallas County, Dallas, Texas.

*Majors, Karen Lynn* 11446 Southard Road, Cato, New York, convicted on May 4, 1987, in the United States



- District Court, Northern District of New York.
- McClung, Stephen Mark* 4205 Augusta Drive, Garland, Texas, convicted on August 15, 1983, in the United States District Court, Denver, Colorado.
- McCurdy, Robert Eugene* Rural Delivery 2, Box 112B, Portersville, Pennsylvania, convicted on November 7, 1985, in the United States District Court, Western District of Pennsylvania, Pittsburgh, Pennsylvania.
- Messenger, Gary Brian* 8324 West Dana Street, Apartment 3, Milwaukee, Wisconsin, convicted on February 26, 1986, in the Circuit Court of Milwaukee County, Wisconsin.
- Monk, Ronald Burl* 14319 Johns Lake Road, Clermont, Florida, convicted on November 17, 1976, in the Circuit Court of Orange County, Florida.
- Moore, Charles Louis Jr.* 1902 Middle Street, Sullivan's Island, South Carolina, convicted on October 16, 1980, in the United States District Court, State of Maryland.
- Moore, Larry John* Box 50A, Baker Road Extension, Ellenburg Depot, New York, convicted on February 24, 1988, in the United States District Court, Northern District of New York, Albany, New York.
- Neider, John Gustave* 1457 County C., Wausau, Wisconsin, convicted on May 7, 1977, in the Racine County Court, Branch IV, Racine, Wisconsin.
- Nichols, Douglas Wayne* Post Office Box 81, Ekron, Kentucky, convicted on March 3, 1977, in the Breckinridge Circuit Court, Hardinsburg, Kentucky.
- Nollan, Randal James* 816 South Shangri-La Shores, Coupeville, Washington, convicted on January 26, 1984, in the Pierce County Superior Court, Washington.
- Oakley, Grady Lee* Route 3, Box 382, North Wilkesboro, North Carolina, convicted on November 23, 1959, in the United States District Court, Middle District of North Carolina, Wilkesboro, North Carolina.
- Olivo, Richard Daniel* Randall Road, Wading River, New York, convicted on October 15, 1986, in the New York Supreme Court, Hauppauge, New York.
- Paul, Charles Edward* 931 East 5th Street, Texarkana, Arkansas, convicted on September 22, 1982, in the United States District Court, Western District of Arkansas, Texarkana, Arkansas.
- Perkins, Ronnie* 510 West Pike Street, Vevay, Indiana, convicted on July 14, 1983, in the Owen Circuit Court, Owenton, Kentucky.
- Plecker, Raymond M.* 1475 South Michigan Avenue, Clearwater, Florida, convicted on December 5, 1974, in the Circuit Court of Sixth Judicial District, Pinellas County, Florida.
- Ramsey, Shawn Ryan* Route 1, Box 421, Detroit Lakes, Minnesota, convicted on August 27, 1987, in the Seventh Judicial District Court, Becker County, Minnesota.
- Rehm, Corey Tyler* 135 North Main Street, Dousman, Wisconsin, convicted on June 12, 1985, in the Circuit Court, Branch Two, Waukesha County, Wisconsin.
- Reuman, Robert Everett* RFD 5, 460 Marston Road, Waterville, Maine, convicted on February 16, 1949, in the United States District Court, Eastern District of Pennsylvania.
- Shaw, James Bernard* 1312 Parkway Boulevard, Two Rivers, Wisconsin, convicted on November 11, 1985, in the Manitowoc Circuit Court, Manitowoc, Wisconsin.
- Sherretts, Harry Scott* 3808 Lake Aire Drive, Nashville, Tennessee, convicted on January 6, 1987, in the Middle District of Nashville, Tennessee.
- Socia, Gerald Thomas* 362 Harvest Lane, Frankenmuth, Michigan, convicted on May 29, 1985, in the United States District Court, Eastern District of Michigan, Bay City, Michigan.
- Sparks, William Lee* 832 Ranch, Villa Ridge, Missouri, convicted on February 14, 1956, in the Circuit Court of Fayette County, Kentucky.
- Stephens, Harold Edward Junior* Route 1, Box 33, Greenup, Kentucky, convicted on July 18, 1983, in the Greenup Circuit Court, Greenup, Kentucky.
- Thompson, Charles Edgar* 712 Louray Drive, Baton Rouge, Louisiana, convicted on February 16, 1982, in the United States District Court, Middle District Court of Louisiana.
- Turner, Walter Cerreck Senior* 100 West Cleveland, Baytown, Texas, convicted on September 17, 1984, in the United States District Court, Southern Judicial District of Texas, Houston, Texas.
- Watson, William Edward Senior* 17290 Shaftsbury, Detroit, Michigan, convicted on September 11, 1956, in the District Court of Detroit, Michigan; and also on August 1, 1974, in the Thirty-sixth District Court, Detroit, Michigan.
- White, William Howard* Rural Delivery 1, Box 206B, Emlenton, Pennsylvania, convicted on February 5, 1965, in the Court of Common Pleas, Clarion County, Punxsutawney, Pennsylvania.
- Williams, Kenneth* 19803 Whitcomb, Detroit, Michigan, convicted on June 13, 1960, in the Recorder's Court for the City of Detroit, Detroit, Michigan.
- Woller, Timothy John* 926 Lincoln Avenue, Wausau, Wisconsin, convicted on October 19, 1982, in the Circuit Court of Marathon County, Wausau, Wisconsin.

#### Compliance with Executive Order 12291

It has been determined that this notice is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; it will not result in a major increase in cost of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Signed: February 3, 1992.

Stephen E. Higgins,  
Director.

[FR Doc. 92-3878 Filed 2-19-92; 8:45 am]

BILLING CODE 4810-31-M



# Sunshine Act Meetings

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FARM CREDIT ADMINISTRATION

### Correction of Sunshine Act Meeting

**SUMMARY:** Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on February 12, 1992 (57 FR 5209) of the regular meeting of the Farm Credit Administration Board (Board) scheduled for February 13, 1992. This notice is to revise the agenda for that meeting to correct an item in the closed session.

### FOR FURTHER INFORMATION CONTACT:

Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-444.

**ADDRESS:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

**SUPPLEMENTARY INFORMATION:** Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for Thursday, February 13, is revised to correct the following items in the closed session:

### \*Closed Session

#### A. New Business

##### 1. Other Prior Approval

a. Bakersfield PCA and FLBA Financial Assistance to Facilitate Merger with Visalia PCA and FLCA.

Dated: February 14, 1992.

Curtis M. Anderson,  
Secretary, Farm Credit Administration Board.  
[FR Doc. 92-4042 Filed 2-18-92; 11:22 am]  
BILLING CODE 6705-01-M.

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, February 18, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Recommendations concerning administrative enforcement proceedings.

\*Session closed to the public—exempt pursuant to 5 U.S.C. § 552b(c) (8) and (9).

Matters relating to the probable failure of certain insured banks.

Matters relating to the Corporation's assistance agreement with an insured bank.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—7th Street, NW., Washington, DC.

Dated: February 18, 1992.  
Federal Deposit Insurance Corporation.  
Robert E. Feldman,  
Deputy Executive Secretary.  
[FR Doc. 92-4110 Filed 2-18-92; 4:06 pm]  
BILLING CODE 6714-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, February 25, 1992, to consider the following matters:

**Summary Agenda:** No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.

Memorandum re: Mid-Period Review of the Corporation's 1991/1992 Business Plan.

Memorandum and resolution re: Delegation of Authority to the Vice Chairman to Assert the Deliberative Process Privilege.

Memorandum and resolution re: Delegations of Authority to the Resolution Trust Corporation's Division of FSLIC Operations.

### Discussion Agenda:

Memorandum and resolution re: Final amendments to Part 325 of the Corporation's rules and regulations, entitled "Capital Maintenance," which clarify that limitations on the inclusion of purchased mortgage servicing rights in calculating tangible capital, risk-based capital or the leverage limit apply only to insured institutions for which the Corporation is the appropriate Federal banking agency.

Memorandum and resolution re: Final amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which prescribe the amount of loans an insured nonmember bank may make to its executive officers for purposes other than education and home finance.

Memorandum and resolution re: Proposed amendments to Part 337 of the Corporation's rules and regulations, entitled "Unsafe and Unsound Banking Practices," which would allow an insured nonmember bank to make extensions of credit to its executive officers for any purpose other than education or to finance a residence if the aggregate outstanding balance on such loans to the executive officer do not exceed the higher of 2.5 percent of the bank's capital and unimpaired surplus or \$25,000; provided that in no event may such extensions of credit exceed \$100,000.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: February 18, 1992.  
Federal Deposit Insurance Corporation.  
Hoyle L. Robinson,  
Executive Secretary.  
[FR Doc. 92-4111 Filed 2-18-92; 4:06 pm]  
BILLING CODE 6714-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting



Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, February 25, 1992, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

**Summary Agenda:** No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

**Note.**—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

#### Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(8) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(8)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: February 18, 1992.  
Federal Deposit Insurance Corporation.  
Hoyle L. Robinson,  
Executive Secretary.  
[FR Doc. 92-4112 Filed 2-18-92; 4:06 pm]  
BILLING CODE 6714-0-M

#### FEDERAL ELECTION COMMISSION

**DATE AND TIME:** Tuesday, February 25, 1992, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public

#### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.  
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 28, U.S.C.  
Matters concerning participation in civil actions or proceedings or arbitration.  
Internal personal rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, February 27, 1992, 10:00 a.m.

**PLACE:** 999 E. Street, NW., Washington, DC (ninth floor).

**STATUS:** This meeting will be open to the public.

#### ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes  
Title 28 Certification Matters: Eligibility of Lyndon H. LaRouche Jr. to Receive Public Financing—Final Determination  
Advisory Opinion 1992-1: Mr. Roger Faulkner (continued from meeting of February 13, 1992).  
Advisory Opinion 1992-4: Mr. John Michael Cortese (continued from meeting of February 13, 1992).  
Advisory Opinion 1992-2: Ms. Carol Darr and Mr. Eric London on behalf of the Democratic National Committee (continued from meeting of February 13, 1992).  
Advisory Opinion 1991-32: Mr. Michael G. Massey on behalf of CEC, Inc.  
Draft Final Rule Amending the Allocation Rules, with Explanation and Justification Administrative Matters

#### PERSON TO CONTACT FOR INFORMATION:

Mr. Fred Eiland, Press Officer,  
Telephone: (202) 219-4155.  
Delores Harris,  
Administrative Assistant.  
[FR Doc. 92-4086 Filed 2-18-92; 2:30 pm]  
BILLING CODE 6715-01-M

#### FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 11:00 a.m., Monday, February 24, 1992.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

#### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 14, 1992.  
Jennifer J. Johnson,  
Associate Secretary of the Board  
[FR Doc. 92-3994 Filed 2-14-92; 4:25 pm]  
BILLING CODE 6210-01-M

#### NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

**TIME AND DATE:** 1:30 P.M., Wednesday, February 26, 1992.

**PLACE:** Filene Board Room, 7th Floor, 1776 G. Street, NW., Washington, DC 20456.

**STATUS:** open.

#### BOARD BRIEFINGS:

1. Economic Commentary.
2. Insurance Fund Report.

#### MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Central Liquidity Facility Report and Review of CLF Lending Rate.
3. Request by State of North Carolina for Exemption from Section 701.21(h), NCUA's Rules and Regulations, Member Business Loans.

**FOR MORE INFORMATION CONTACT:** Becky Baker, Secretary of the Board, Telephone (202) 662-9600.  
Becky Baker,  
Secretary of the Board.  
[FR Doc. 92-4109 Filed 2-18-92; 4:05 pm]  
BILLING CODE 7535-01-M



# Corrections

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-4030-5]

### Massachusetts Marine Sanitation Device Standard; Receipt of Petition

#### Correction

In notice document 91-27395 beginning on page 57891 in the issue of Thursday, November 14, 1991, make the following correction:

On page 57892, in the first column at the end of the document, the file line was omitted and should read as follows: [FR Doc 91-27395 Filed 11-3-91; 8:45 am]

Billing Code 6560-50-M

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 91G-0495]

### American Maize-Products Co. and Roquette Corp.; Filing of Petition for Affirmation of GRAS Status

#### Correction

In notice document 92-2395 appearing on page 4043 in the issue of Monday, February 3, 1992, "B-cyclodextrin" should read "β-cyclodextrin", each time it appears.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 88N-0003]

RIN 0905-AA06

### Antacid and Acetaminophen Combination Drug Products in a Solid Dosage Form; Marketing Status for Over-the-Counter Human Use; Notice of Enforcement Policy

#### Correction

In notice document 92-2727 beginning on page 4456 in the issue of Wednesday, February 5, 1992, make the following correction:

On page 4457, in the first column, in the second full paragraph, in the next to last line, insert "different position that could require relabeling, recall, or" after "a".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[T.D. 8381]

RIN 1545-A058

### Accuracy-related Penalty

#### Correction

In rule document 91-30708, beginning on page 67492, in the issue of Tuesday, December 31, 1991, make the following corrections:

#### § 1.6662-0 [Corrected]

1. On page 67497, in the table of contents, in the third column, in the first line, "or" should read "of".

2. In the same column, in the fourth line, "of" should read "or", and "or" should read "of".

#### § 1.6662-4 [Corrected]

3. On page 67500, in the first column, in § 1.6662-4(b)(2)(ii), in the second paragraph, the last four lines should be flush.

4. In the same column, in § 1.6662-4(b)(4)(i), in the second line, "§ 1.664-2(c)(1)(i)" should read "§ 1.6664-2(c)(1)(i)", and in the fourth line, the "(C)" in the section cite should be lower case.

5. On the same page, in the second column, in § 1.6662-4(b)(6), in the fifth line, "§ 1.664-4:" should read "§ 1.6664-4:".

6. On page 67501, in the first column, in § 1.6662-4(c)(5), in *Example 1*, in the table, in the last line of the second column, "4,757" should read "4,575".

7. In the same example, in paragraph (iv), the sixth line should be flush, and, "\$" should precede the numeric figures in the sixth and seventh lines.

8. In the same example, in paragraph (vi), in the second column, in the second line, insert "a" after "is", and in the fourth line, insert "the" after "of" the second time it appears.

9. On page 67502, in the first column, in § 1.6662-4(d)(3)(ii), in the sixth line, "type" was misspelled.

#### § 1.6662-5 [Corrected]

10. On page 67504, in the second column, in § 1.6662-5(b), in the seventh line, "\$10,000" should read "(\$10,000".

#### § 1.6664-2 [Corrected]

11. On page 67506, in the second column, in § 1.6664-2(c)(1), in the second line, "paragraph (c)" should read "paragraph (a)".

12. On the same page, in the third column, in § 1.6664-2(d), in the ninth line, "6861" should read "6851", and in the tenth line, "6851" should read "6861".

13. On page 67507, in § 1.6664-2(g), in *Example 1*, in the last two lines of the table, insert "\$" in front of the numeric figures.

14. On the same page, in the same section, in the second column, make the above correction for the tables in the second and third examples also.

#### § 1.6664-3 [Corrected]

15. On the same page, in the third column, in § 1.6664-3(d), in *Example 1*, in the table, in the right-hand column, insert "\$" in front of the 4th, 6th, 7th, 8th, and 11th numeric figures.

16. On page 67508, in the first column, in § 1.6664-3(d), in *Step 1*, of the same example, make the above correction for the third, fourth and sixth numeric figures.

17. In the same example, make the same correction for the table in *Step 2*, and in *Step 3*, make the same correction for the fourth and fifth numeric figures.



**§ 1.6664-4 [Corrected]**

18. On the same page, in § 1.6664-4(b)(1), in the 3d column, in the 21st line, "indicated" should read "indicates".

19. In the same column, in the 32d line, "or" should read "of".

20. On page 67509, in the second column, in § 1.6664-4(e)(2)(ii), in the third line, "appraisal" was misspelled.

BILLING CODE 1505-01-D

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[PS-78-91]

RIN 1545-AQ07

**Procedure for Monitoring Compliance with Low-Income Housing Credit Requirements**

**Correction**

In proposed rule document 91-30710, beginning on page 67018 in the issue of

Friday, December 27, 1991, make the following corrections:

1. On page 67018:

a. In the second column, under **SUMMARY**, in the seventh line, "code" should read "Code".

b. In the third column, under **SUPPLEMENTARY INFORMATION**, in the 2d paragraph, in the 12th line, "form" should read "Form".

2. On page 67019, in the first column, under **Background**, in the second paragraph, in the fourth line, "section 28" should read "section 38".

3. On page 67020:

a. In the first column, in the first full paragraph, in the seventh line, after "financed" insert "by".

b. In the first column, under 4. Auditing, in the third line, "as" should read "an".

c. In the second column, under 5. Notification, in the second paragraph, in the third line, after "supply" insert "a".

d. In the third column, under *Effective Date*, in the third line, after "1992" insert a comma.

**§ 1.42-5 [Corrected]**

4. On page 67021, in the second column, in § 1.42-5(b)(1)(vi), in the -sixth line, "employees" should read "employers".

5. On page 67022:

a. In the first column, in § 1.42-5(c)(2)(ii), in the flush paragraph, in the eighth line, after "year" insert "will".

b. In the second column, in § 1.42-5(c)(4), in the last line, "underpenalty" should read "under penalty".

c. In the same column, in § 1.42-5(d), in the seventh line, "nay" should read "any".

d. In the same column, in § 1.42-5(e), in the seventh line, "low-come" should read "low income".

BILLING CODE 1505-01-D



# Federal Register

Thursday  
February 20, 1992

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## Part II

### Environmental Protection Agency

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Ethyl Parathion, Correction of  
Cancellation Order; Notice



# ENVIRONMENTAL PROTECTION AGENCY

[OPP-66157B; FRL 4049-2]

## Ethyl Parathion; Correction to the Amended Cancellation Order

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of issuance of corrections of amended cancellation order.

**SUMMARY:** On January 29, 1991, EPA published a Federal Register notice [OPP-66157A; FRL 4044-9] which amended the ethyl parathion cancellation order published on December 13, 1991 [OPP 66157; FRL 4003-9]. EPA is now making corrections to the amended cancellation order.

**DATES:** The corrected amended cancellation order became effective on February 4, 1992.

### FOR FURTHER INFORMATION CONTACT:

Brian Steinwand, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. WF32G5, Crystal Station #1, 2800 Crystal Drive, Arlington, VA. Telephone: 703-308-8174.

### SUPPLEMENTARY INFORMATION:

On January 29, 1992, EPA issued an amendment to the December 13, 1991 cancellation order of ethyl parathion (parathion) pesticide products (57 FR 3500, January 29, 1992). The amended order extended the period for using existing stocks of certain canceled parathion products, specifically, non-emulsifiable concentrate products, until July 31, 1992. The amended order identified those specific products for which extended use of existing stocks is permitted (Tables 1 and 2 of the amended order), and those specific

products for which extended use of existing stocks is not permitted (Tables 3 and 4 of the amended order).

The Agency has discovered that four products were mistakenly omitted from the tables listing products for which use has been extended until July 31, 1992. Specifically, Helena Chemical Company's products 5905-255 (Parathion 25WP) and 5905-408 (Parathion 8 Flowable), Gowan Chemical Company's product 10163-127 (Prokil Parathion 25WSB), and Drexel Chemical Company's product 19713-237 (Parathion Bait 2 percent). The Agency has also discovered in Table 2 that the first entry under "Wilbur-Ellis," reading "OR760021 (Niagara Phos Kil 25 Spray)" should have been included with the products for the FMC Corporation only. The corrected tables are presented below. The Agency regrets any inconvenience caused by these omissions.

Corrected Table 1 read as follows:

TABLE 1.— PRODUCTS APPROVED FOR EXTENDED USE

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	279-336	Phoskil Spray
			279-447	Phoskil 25 Spray
			279-464	Phoskil 2 Dust Insecticide
			279-1251	Aqua Phoskil 6
			279-1957	Niagara Parathion 2 Coated Granules
			279-2069	Parathion 10 Granular
			279-2770	Malathion Parathion Wettable
769	Sureco	P.O. Box 938, Fort Valley, GA 31030	769-77	Parathion 15% Wettable
			769-110	Parathion-Sulphur 2 Peach Spray 6
			769-241	Parathion-Captan Peach Spray
			769-442	10% Parathion Granulated
			769-518	Sure-Kote P Parathion-Sulphur Flowable Peach Spray
			769-557	Parathion 25-W
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	2935-329	Wilbur-Ellis Parathion 8 Flowable
5481	AMVAC Chemical Corp.	4100 E. Washington Blvd., Los Angeles, CA 90023	5481-99	Durham Durathion Granules 2
			5481-127	Durham Durathion Granules 5
			5481-185	Parathion 25W
			5481-243	Royal Brand 1% Parathion
			5481-244	Ferbam Parathion Dust
			5481-246	3.75% Parathion & 70% Sulfur
			5481-252	Parathion 4-G
			5481-260	Thiodan 3 Parathion 1 Tobacco Dust
			5481-263	Parathion 25 DB
			5481-265	Polyram 3.5 Dust With Parathion-1.0
			5481-277	Captan Parathion 25-7.5 Wettable
			5481-281	Parathion 15-W
			5481-290	Apple Dust No. 3
			5481-295	2% Parathion Dust
			5481-297	Cyprex, Parathion, Sulphur 2-2-20 Dust
			5481-299	Sulphur-Parathion Fungicide Insecticide For Apples
			5481-329	Parathion-Zinc-Sulfur 2.7-12-55 WP
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	5905-255	Parathion 25WP
			5905-284	Peach Spray
			5905-292	15% Parathion Wettable
			5905-408	Parathion 8 Flowable



TABLE 1.—PRODUCTS APPROVED FOR EXTENDED USE—Continued

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
9779	Riverside/Terra Corporation	P.O. Box 171376, Memphis, TN 38187	9779-205	Riverside 10% Parathion Granules
10163	Gowan Company	P.O. Box 5569, Yuma, AZ 85366	10163-54	Prokil Parathion 8 Flowable
			10163-62	Prokil Parathion 25 WP
			10163-127	Prokil Parathion 25 WSB
11656	Western Farm Service	3705 W. Beechwood Ave., Suite 101, Fresno, CA 93711	11656-62	Parathion 25 Wettable
			11656-84	Parathion 25 Wettable
19713	Drexel Chemical Company	P.O. Box 9306, Memphis, TN 38109	19713-100	Drexel Parathion 10%G
			19713-237	Parathion Bait 2%
			19713-280	Ida, Inc. Parathion 10%G
34704	Platte Chemical Company	419 18th Street, P.O. Box 667, Greeley, CO 80632	34704-56	Clean Crop Parathion 25W
			34704-85	Clean Crop Parathion 8-F
			34704-90	Parathion 25W
			34704-327	Kolo Phos Kil 3 Spray
			34704-334	Sulfur 6 Phos Kil 2 Spray
			34704-385	Captan 25 Parathion 7.5 W.P.
			34704-460	Parawet 25W
51036	Micro-Flo Company	P.O. Box 5948, Lakeland, FL 33807	51036-21	Parathion 15 WP
			51036-32	Parathion 15 WP
			51036-43	Parathion 10G
			51036-46	Peach Spray S-P-Z 6-2-3
			51036-47	Peach Spray S-P 6-2
			51036-86	Parathion 25 WP
			51036-155	Parathion 2% Bait
			51036-160	Parathion 10 Granular

Corrected Table 2 read as follows:

TABLE 2.—PARATHION SECTION 24(C) (STATE) SPECIAL LOCAL NEED (SLN) REGISTRATIONS

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	CA780139	Niagara Phos Kil 25 Spray
			CA790084	Niagara Phos Kil 25 Spray
			CA800183	Niagara Phos Kil 25 Spray
			CA820064	Niagara Phos Kil 25 Spray
			OR760021	Niagara Phos Kil 25 Spray
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	ID770020	Red Top Parathion 8 Flowable
			ID860010	Red Top Parathion 8 Flowable
			WA820073	Red Top Parathion 8 Flowable
4581	Pennwalt	Three Parkway, Room 619, Philadelphia, PA 19102	LA860005	Penncap-E Insecticide
			OK780015	Penncap-E

Table 3 continues to read as follows:

TABLE 3.—PRODUCTS NOT APPROVED FOR EXTENDED USE

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC Corporation, Agricultural Chemical Group	1735 Market Street, Philadelphia, PA 19103	279-1368	Parathion 4 Emulsifiable
			279-1611	Aqua 8 Parathion



TABLE 3.—PRODUCTS NOT APPROVED FOR EXTENDED USE—Continued

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
769	Sureco	P.O. Box 938, Fort Valley, GA 31030	279-2089 279-2128 769-291	Parathion 1 Thiodan 2 EC Methyl Parathion 3 Parathion 6 EC Parathion-EC4
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	2935-138	Wilbur-Ellis Parathion 4 Spray
4787	Cheminova Holding A/S	1455 Broad Street, Bloomfield, NJ 07003	2935-360 4787-12 4787-13	Wilbur-Ellis Ethyl-Methyl Parathion 6-3 Sure-Death Brand Airpara-Miscible Sure Death Brand 4LB. Parathion Emulsifiable Concentrate
5481	AMVAC Chemical Corp.	4100 E. Washington Blvd., Los Angeles, CA 90023	5481-151  5481-152 5481-261 5481-266 5481-287	Parathion 8  Parathion-Methyl Parathion 6-3 Parathion 1 Thiodan 2 EC Parathion 800 Parathion 400
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	5905-82 5905-86 5905-109 5905-187 5905-214 5905-215 5905-225 5905-334	Helena Brand Parathion 4E Emulsifiable Insecticide Concentrate Helena Brand Parathion 8E Emulsifiable Insecticide Concentrate 2 LB. Ethyl Parathion F/Mosquito Control Ethyl Parathion 8 LB. 3 LB. Ethyl Parathion Ethyl Parathion 4 Parathion-Methyl Parathion 6-3 Insecticide Parathion 4 E.C.
7401	Voluntary Purchasing Group, Inc.	P.O. Box 460, Bonham, TX 75418	7401-156 7401-203 7401-297	Hi-Yield Brand 4 LB Ethyl Parathion Hi-Yield 6-Ethyl 3-Methyl Hi-Yield Brand 8 LB. Ethyl Parathion
9779	Riverside/Terra Corporation	P.O. Box 171376, Memphis, TN 38187	9779-26 9779-125 9779-136	Riverside Parathion 4 Riverside Dithon Riverside Parathion 8
10107	Cornbelt Chemical Company	P.O. Box 410, McCook, NE 69001	10107-24	Parathion E8
10163	Gowan Company	P.O. Box 5569, Yuma, AZ 85366	10163-1 10163-3 10163-52 10163-117	Prokil Parathion 4LB Prokil Ethyl-Methyl Parathion 6-3E Prokil Parathion 8 EC Gowan Parathion-Methyl Parathion 6-3E
11656	Western Farm Service	3705 W. Beechwood Ave., Suite 101, Fresno, CA 93711	11656-14 11656-15 11656-16	Parathion 8EC Western Farm Service, Inc. Parathion 4 Western Farm Service, Inc. Ethyl-Methyl 6-3
19713	Drexel Chemical Company	P.O. Box 9306, Memphis, TN 38109	19713-38 19713-83 19713-218 19713-272	Drexel Parathion 8 Drexel Seis-Tres 6-3 Parathion 4 Emulsifiable Concentrate Ida. Inc. Seis-Tres 6-3
34704	Platte Chemical Company	419 18th Street, P.O. Box 667, Greeley, CO 80632	34704-2  34704-9 34704-16 34704-88 34704-455 34704-459 34704-570	Clean Crop Parathion 4-EC  Clean Crop Parathion 8-E Clean Crop 6-3 Parathion-Methyl Parathion Thionspray No. 84 Clean Crop Parathion 4EC Parathion 8 Aquamul Hopkins Parathion
42761	Red Panther Chemical Company	P.O. Box 550, Clarksdale, MS 38614	42761-10 42761-44 42761-65	Red Panther Parathion 8 Smith-Douglas Ethyl-Methyl 6-3 Emulsion Concentrate Parathion 8 lb. E.C.
51036	Micro-Flo Company	P.O. Box 5948, Lakeland, FL 33807	51036-19 51036-22 51036-35 51036-38 51036-59 51036-74 51036-114 51036-161 51036-162	Ethyl-Methyl parathion 6-3 EC Parathion 4 EC Parathion Emulsion 4 Aqua 8 Parathion Ethyl-Methyl 6-3 EC Parathion 4EC Parathion 8E Parathion 8 Concentrate Parathion 8E

Table 4 continues to read as follows:



TABLE 4.—PARATHION SECTION 24 (C)(STATE) SPECIAL LOCAL NEED (SLN) REGISTRATIONS

Company Registration Number	Company Name	Company Address	Product Registration Number	Product Name
279	FMC	1735 Market Street, Philadelphia PA 19103	ID770021 UT840006 WA790060	Niagara Aqua 8 Parathion Insecticide Code 701 Niagara Aqua 8 Parathion Insecticide Code 701 Niagara Aqua 8 Parathion Insecticide Code 701
5905	Helena Chemical Company	Suite 500, 6075 Poplar Avenue, Memphis, TN 38119	NC810037	Atlas Parathion 8-E An Emulsifiable Liquid
2935	Wilbur-Ellis	191 W. Shaw Avenue, Suite 107, Fresno, CA 93704	OR810023	Red-Top Parathion 4 Spray
34704	Platte Chemical Company	419 18th Street, P.O.Box 667, Greeley, CO 80632	WA810039 GA910001 ID910011 MS910003 ND790010 TX760012 WA910030	Red-Top Parathion 4 Spray Clean Crop Parathion 8-E Emulsifiable Concentrate Clean Crop Parathion 8-E Emulsifiable Concentrate Clean Crop Parathion 8-E Parathion 8-E Emulsifiable Concentrate Clean Crop Parathion 8-E Emulsifiable Concentrate Clean Crop Parathion 8-E Emulsifiable Concentrate

Dated: February 4, 1992.

Dan Borolo,

Director, Special Review and Reregistration  
Division, Office of Pesticide Programs.

[FR Doc. 92-3948 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-F



Table 1.—FARMERS' PERCENTAGE OF CROPS DESTROYED BY INSECT PESTS

State	Year	Percentage of crops destroyed by insect pests
Alabama	1910	1.2
Alabama	1911	1.5
Alabama	1912	1.8
Alabama	1913	2.1
Alabama	1914	2.4
Alabama	1915	2.7
Alabama	1916	3.0
Alabama	1917	3.3
Alabama	1918	3.6
Alabama	1919	3.9
Alabama	1920	4.2
Alabama	1921	4.5
Alabama	1922	4.8
Alabama	1923	5.1
Alabama	1924	5.4
Alabama	1925	5.7
Alabama	1926	6.0
Alabama	1927	6.3
Alabama	1928	6.6
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Alabama	2315	1



Thursday  
February 20, 1992

# Test Report

## Part III

## Department of Housing and Urban Development

### Office of the Secretary

**24 CFR Subtitle A and Chs. I-XX  
Request for Public Comments as Part of  
HUD's Effort To Modify or Eliminate  
Burdensome Regulations; Proposed Rules**



# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of the Secretary

### 24 CFR Subtitle A and Chs. I-XX

[Docket No. N-92-3390; FR-3251]

## Request for Public Comments as Part of HUD's Effort To Modify or Eliminate Burdensome Regulations

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Request for public comment.

**SUMMARY:** On January 28, 1992, President Bush, in his State of the Union Address, asked major Cabinet departments and Federal agencies to "carry out a top-to-bottom review of all regulations, old and new, to stop the ones that will hurt (economic) growth and speed up those that will help (economic) growth."

In keeping with the President's directive, HUD plans to work with the public, other interested agencies, and the President's Council on Competitiveness to identify and eliminate rules that unnecessarily impose substantial costs or red-tape on the economy. The Department's review will occur over a 90-day period. It will culminate with the submission of a report to the President indicating changes or recommended changes to the Department's regulations.

This Notice provides the public with an opportunity to participate in the President's program as it relates to the regulatory activities of the U.S. Department of Housing and Urban Development.

**DATES:** Comments must be received by March 23, 1992.

**ADDRESSES:** Interested persons are invited to submit comments to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern Time) at the above address.

Please see Section II of the Supplementary Information Section of this notice for suggested ways on how properly to identify and organize subject matter(s) discussed in the comments.

**FOR FURTHER INFORMATION CONTACT:** Grady J. Norris, Assistant General Counsel for Regulations, Office of the General Counsel, Department of Housing and Urban Development, room

10276, 451 Seventh Street, SW., Washington, DC 20410-0500, (telephone (voice) (202) 708-3055, (TDD) 708-3259. These are not toll-free numbers).

## SUPPLEMENTARY INFORMATION:

### I. Scope of Review

During the 90-day review period, HUD will be assessing both its existing rules (i.e., rules in effect), and pending rules (i.e., rules that are at a processing stage short of being published for effect). The purpose of this Notice is to solicit comment solely on rules that are already in effect. HUD has already received or will receive public agency comment on pending rules, each proposed rule containing its own record of public comments. On a separate track, the Department is pursuing the President's directive that, also during this 90-day period, no pending regulations will be published other than those that clearly promote economic growth, address imminent health and safety hazards, meet judicial and legislative deadlines, relate solely to agency organization, or are essential to a criminal law enforcement function.

### II. Manner of Submitting Comments

We seek public cooperation, insofar as possible, in the manner that comments are submitted. This will enable HUD staff quickly to assimilate and react to comments which are similar.

Our objective is to encourage public comments that will help the Department to identify rules perceived as problems. Thus, it would be helpful if a commenter identified the program and specific regulatory provision perceived as problematic, as well as any supporting documentation the commenter may wish to furnish.

HUD's regulations are contained in title 24 of the Code of Federal Regulations. Title 24 is subdivided into two subtitles that contain regulations under the Office of the Secretary (subtitle A) and Regulations Relating to Housing and Urban Development (subtitle B), respectively. Subtitle B is further subdivided into chapters (generally describing activities of specific, major HUD program offices); subchapters; parts; and sections. In all, HUD regulations begin at 24 CFR 0.735-101 and end at 24 CFR 3500.14. In between are many hundreds of rule sections and subsections that govern the administration of the Department and its programs.

Given this large volume of rules, and the relatively short time frame within which we will seek to address issues raised, the Department requests that commenters try, if at all possible, to

organize comments in the manner described below. These procedures are suggestions and not at all mandatory.

Initially, it would be helpful if each public comment contains a cover page that identifies the commenter and the rule(s) called into question. Each rule listed should have a section number and title.

Example: (1) 24 CFR § xxx.20,  
Requirements governing \* \* \*  
(2) 24 CFR § xxx.1, Submission  
requirements \* \* \*

Second, please initiate the discussion of each rule section on a separate page. Thus, in the example above, separately headed pages would be employed for each of the two rules described on the cover sheet.

Third, please organize the substantive comment into two parts as follows: (1) A discussion of how the specific rule inhibits economic growth, and (2) how the rule could be modified in order to promote growth (or, if need be, why it should be eliminated). The commenter is welcome to provide cost data in support of arguments offered (i.e., estimates of the burdensome costs engendered by the existing regulation, and of savings that would be generated by a change in the regulation).

Finally, if at all possible, comments on each rule should be limited to a single page.

### III. Evaluation Criteria

In his State of the Union Address, President Bush expressed concern that some Federal regulations inhibit rather than promote economic growth. The President emphasized the need for sound regulations that serve the public good, but stated that "regulatory overkill must be stopped." He cited a wealth of ideas and activities that Federal departments and agencies could and should be working to promote. These include, but are not limited to, the following:

1. The need to encourage investment, in new products, industries, and jobs;
2. The need to end the credit crunch;
3. The need to keep interest rates and inflation low;
4. The need to utilize tax incentives to encourage real estate construction and affordable housing;
5. The need to fight crime and drugs;
6. The need to spur work, education and job training; and
7. The need to eliminate wasteful Federal programs.

In carrying out its review of HUD's existing (as well as pending) rules, the Department will focus on the objectives set forth by the President. The above list



is not meant to be all-inclusive. For example, HUD is anxious to eliminate unnecessary red-tape, and to streamline programs so that they most effectively meet its objective to correct any material weaknesses that could lead to abuse in HUD programs. These goals are listed in order to lend guidance to commenters on the general direction being pursued by HUD.

#### IV. Ongoing Activity

HUD's regulations do provide, at 24 CFR 10.20, petition for rule making, that any interested person may (at any time)

petition the Secretary for the issuance, amendment, or repeal of a rule. The undertaking set forth in this Notice is not a substitute for, but rather an addition to, that process. The President's mandate allows the Department an opportunity, together with the public and other Federal agencies, to engage in a concentrated effort to weed out regulations that fail to serve the public well.

At the end of the review period, the Department will report its findings to the President. We anticipate that a number of regulations will be modified or

eliminated as a result of this review. Once HUD has finally determined which rules require change or elimination, the Department will publish a **Federal Register** notice informing the public of its future plans for instituting public notice and comment rule makings to effect these changes in Departmental policy.

Dated: February 14, 1992.

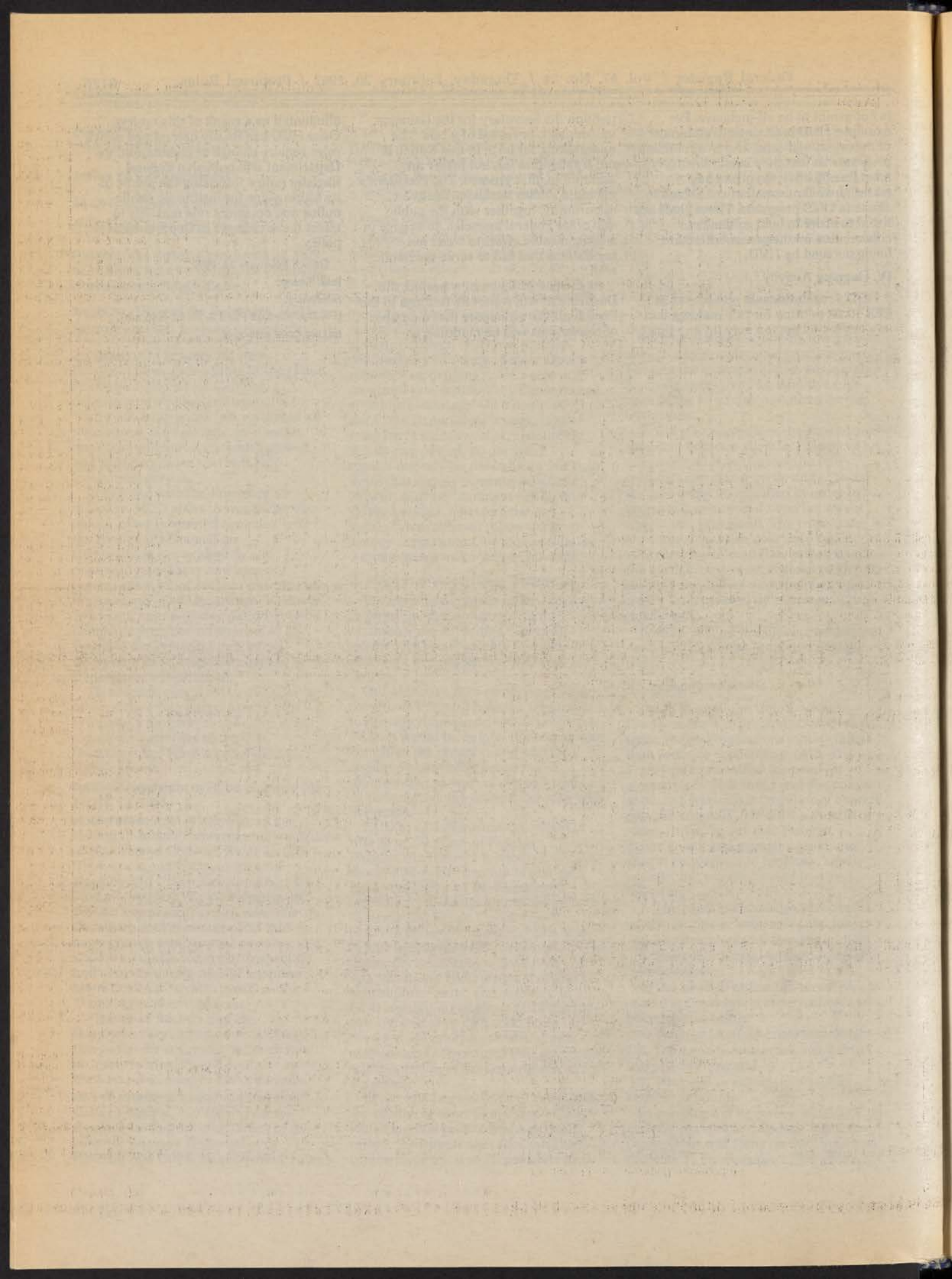
Jack Kemp,

Secretary.

[FR Doc 92-4019 Filed 2-19-92; 8:45 am]

BILLING CODE 4210-32-M







# Federal Register

Thursday  
February 20, 1992

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## Part IV

## Environmental Protection Agency

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**National Estuary Program; Nominations  
by State Governors; Notice**



# ENVIRONMENTAL PROTECTION AGENCY

[FRL-4106-3]

## Nominations of Estuaries to the National Estuary Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing its call for nominations of estuaries to the National Estuary Program (NEP). The Governor of any state may nominate an estuary located wholly or partly within the state to be included in the NEP. After evaluating the nominations received, the EPA will select up to three estuaries to be included in the NEP in Fiscal Year 1993.

**DATES:** Nominations must be submitted to the EPA on or before April 20, 1992.

**ADDRESSES:** Governors' nominations should be addressed to The Administrator, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A copy of the nomination should also be sent to Mark Curran, Oceans and Coastal Protection Division (WH-556F), U.S. Environmental Protection Agency, Washington, DC 20460 and to the appropriate regional representative listed below.

**FOR FURTHER INFORMATION CONTACT:** Information concerning the NEP and the nomination process can be obtained by contacting the following individuals:

Ron Manfredonia, Water Quality Branch, US Environmental Protection Agency Region I, JFK Federal Building, One Congress Street, Boston, MA 02203, (617) 565-3531.

Mario Del Vicario, Marine & Wetlands Protection Branch, US Environmental Protection Agency Region II, Jacob K. Javitz Federal Building, 26 Federal Plaza, New York, NY 10278, (212) 264-5170.

Richard Pepino, Environmental Assessment Branch, US Environmental Protection Agency Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-1181.

Stallings Howell, Wetlands, Oceans and Watersheds Branch, US Environmental Protection Agency Region IV, 345 Courtland Street, NE., Atlanta, GA 30365, (404) 347-1740.

Richard Hoppers, Water Quality Management Branch, US Environmental Protection Agency Region VI, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue 12th Floor Suite 1200, Dallas, TX 75202-2733, (214) 655-7135.

Loretta Barsamian, Wetlands, Oceans and Estuaries Branch, US

Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1953.

Jack Gakstatter, Office of Coastal Waters, US Environmental Protection Agency Region X, 1200 Sixth Avenue, Seattle, WA 98101, (206) 442-0966.

Mark Curran, Oceans and Coastal Protection Division (WH-556F), Office of Water, US Environmental Protection Agency, Washington, DC 20460, (202) 260-6502.

### SUPPLEMENTARY INFORMATION:

#### Background

The National Estuary Program (NEP) was established under sections 317 and 320 of the Clean Water Act (CWA), as amended by the Water Quality Act of 1987. The purpose of the NEP is to promote long-term planning and management in nationally significant estuaries threatened by pollution, development, or overuse. This goal is achieved through the preparation of a Comprehensive Conservation and Management Plan (CCMP) which documents the problems and recommends approaches for correcting and preventing problems for each estuary.

The NEP seeks to protect and improve water and sediment quality and to enhance living resources by helping to:

- Establish working partnerships among Federal, State, and local governments;
- Fully utilize scientific and management experience in development of CCMPs;
- Increase public awareness of pollution problems and ensure public participation in consensus building;
- Promote basinwide planning to control pollution and manage living resources; and
- Oversee development and implementation of pollution abatement and control programs.

There are currently 17 estuaries in the NEP. Three of the original estuary programs, Puget Sound, WA; Buzzards Bay, MA; and Narragansett Bay, RI, have completed or will soon complete their CCMPs. These programs will then begin to implement the actions recommended in their CCMPs. The remaining 14 programs are in various stages of CCMP development and are located in Casco Bay, ME; Massachusetts Bays, MA; Long Island Sound, NY and CT; NY-NJ Harbor, NY and NJ; Delaware Bay, DE, PA, and NJ; Delaware Inland Bays, DE; Albemarle-Pamlico Sounds, NC; Indian River Lagoon, FL; Tampa Bay, FL; Sarasota Bay, FL; Barataria-Terrebonne Estuarine Complex, LA; Galveston Bay, TX; Santa Monica Bay, CA; and San Francisco Bay, CA.

Under CWA section 320(a), the Governor of any state may nominate an estuary located wholly or partly within the state and request that the Administrator of EPA convene a management conference to develop a CCMP for the estuary. The CWA calls for the applicants to document the national significance of the estuary, the need for a management conference, and its likelihood of success. In response to a Governor's nomination or on his own initiative, the EPA Administrator is authorized to determine whether the attainment or maintenance of a desired level of water quality in an estuary requires additional pollution abatement and control programs to supplement existing controls. Based on this determination, the Administrator is authorized to convene management conferences for such estuaries.

EPA has determined that the addition of new estuaries to the NEP beyond the existing 17 is warranted. Based on this determination, the Administrator will convene up to three additional management conferences in Fiscal Year 1993.

#### Preparation of Nominations

Nominations should be prepared based on EPA's Final Guidance on the Contents of a Governor's Nomination. The EPA will provide an information kit upon request to assist interested states in preparing their nominations. This information kit includes background information and selection criteria on the NEP, a copy of section 320 of the CWA, and a copy of EPA's Final Guidance on the Contents of a Governor's Nomination. Requests for this information kit should be made to the US EPA Regional office that serves the interested state. Contact names, phone numbers and addresses are provided in the "FOR FURTHER INFORMATION CONTACT" section of this Federal Register notice.

Many of the elements of estuarine management employed in the NEP are being applied by public and private parties in estuaries that are not currently part of the National Estuary Program. Substantial progress towards meeting some NEP objectives has been realized in some of these estuaries.

Based on these factors, and experience gained from the existing 17 management conferences, EPA believes it will be possible to more quickly and economically develop CCMPs for estuaries to be designated in the future. Therefore, when considering management conferences to be convened in Fiscal Year 1993, EPA will give preference to nominations that



describe actions underway to identify and characterize environmental problems and their causes, established partnerships among governmental and private groups with natural resource management and protection missions,

and public involvement in developing and executing action strategies. The available information kit provides further details on the information which should be presented in the nomination to allow the Administrator to determine

whether a candidate estuary should be selected for the NEP.

Lajuana S. Wilcher,  
*Assistant Administrator.*

[FR Doc. 92-4076 Filed 2-19-92; 8:45 am]

BILLING CODE 6560-50-M







# Reader Aids

Federal Register

Vol. 57, No. 34

Thursday, February 20, 1992

## INFORMATION AND ASSISTANCE

### Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

### Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

### Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

### Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

### The United States Government Manual

General information	523-5230
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### Other Services

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## FEDERAL REGISTER PAGES AND DATES, FEBRUARY

3909-4146	3
4147-4356	4
4357-4542	5
4543-4690	6
4691-4834	7
4835-4924	10
4925-5050	11
5051-5226	12
5227-5364	13
5365-5786	14
5787-5972	18
5973-6066	19
6067-6180	20

## CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

<b>Executive Orders:</b>	
August 31, 1917	
(Revoked in part by PLO 6922)	4856
12789	5225
<b>Proclamations:</b>	
6402	4833
6403	5973
6404	6065
<b>Administrative Orders:</b>	
<b>Memorandums</b>	
February 10, 1992	5365
February 10, 1992	5367
<b>Presidential Determinations:</b>	
92-11 of	
January 28, 1992	5787
92-13 of	
February 4, 1992	5789

### 5 CFR

2636	5369
------	------

### 7 CFR

1	3909
271	3909
278	3909, 3913
279	3909
907	3916, 4691, 4835, 5975
916	3918
918	4147
944	4148
1007	3920
1065	4150, 4151
1413	3921
1421	4553
1710	4513, 5931
1940	3922
1942	4357
1980	4336, 4358, 6067
<b>Proposed Rules:</b>	
273	3961, 4793
319	3963
703	4164, 4378
959	4164
998	3965

### 8 CFR

103	3925, 5227
245a	3925

### 9 CFR

75	5210
78	3926
92	5931
105	5210
<b>Proposed Rules:</b>	
92	5294
317	5956
320	5956
381	5956

### 10 CFR

2	4152, 5791
15	4152
54	4912
<b>Proposed Rules:</b>	
Ch. I	4166
30	6077
40	6077
70	6077
100	4168
170	4744
171	4744

### 12 CFR

303	5814
335	4699
Ch. XV	4715
<b>Proposed Rules:</b>	
Ch. V	5080
215	6077
225	6077
615	5294

### 13 CFR

121	4837, 4839
-----	------------

### 14 CFR

39	3927-3936, 4153, 4842, 4848, 4925, 5051, 5369-5379, 5976, 6068, 6070
91	5977
97	4360, 4361, 5977, 5980
1203b	4926
1212	4928
1214	4544

### Proposed Rules:

Ch. I	4744
39	3966, 5081, 5099
71	4168, 4589
91	4352
107	5352
108	5352
135	4352
Ch. II	4744
Ch. III	4744

### 15 CFR

29b	4715
768	4553
770	4553
771	4553
772	4553
773	4553
774	4553
775	4553
776	4553
777	4553
778	4553
779	4553
785	4553
786	4553
790	4553



791.....4553	570.....3970, 3971	290.....5388	721.....4576
799.....4553	Subtitle A:	291.....5388	<b>Proposed Rules:</b>
1201.....4154	Ch. I.....6174	292.....5388	52.....3976, 3978
<b>16 CFR</b>	Ch. II.....6174	295.....5388	75.....4169
305.....6071	Ch. III.....6174	295c.....6074	80.....3980, 5409
600.....4935	Ch. IV.....6174	299.....5388	156.....4390
<b>17 CFR</b>	Ch. V.....6174	316.....6074	268.....4170
146.....4363	Ch. VI.....6174	320.....6074	300.....4824, 5410
<b>Proposed Rules:</b>	Ch. VII.....6174	340.....4853	704.....4177
30.....5239	Ch. VIII.....6174	706.....4854, 4855, 4938, 5856, 5857	799.....4177
32.....5239	Ch. IX.....6174	720.....5228	<b>41 CFR</b>
<b>18 CFR</b>	Ch. X.....6174	750.....4721	101-26.....3949
157.....4716	Ch. XI.....6174	751.....5054	101-38.....4373
250.....5815	Ch. XII.....6174	756.....4735	<b>42 CFR</b>
271.....4852, 4853	Ch. XIII.....6174	757.....5072	<b>Proposed Rules:</b>
<b>Proposed Rules:</b>	Ch. XIV.....6174	<b>Proposed Rules:</b>	418.....4516
271.....5240	Ch. XV.....6174	335.....5122	440.....4085, 4516
<b>19 CFR</b>	Ch. XVI.....6174	505.....4387	441.....4085, 4516
10.....4793, 4936	Ch. XVII.....6174	<b>33 CFR</b>	482.....4516
101.....4717	Ch. XVIII.....6174	165.....5077	483.....4516
<b>Proposed Rules:</b>	Ch. XIX.....6174	<b>Proposed Rules:</b>	488.....4516
24.....4589	Ch. XX.....6174	Ch. I.....4744	<b>43 CFR</b>
113.....4589	<b>26 CFR</b>	165.....4366	<b>Proposed Rules:</b>
142.....4589	1.....4719, 4913, 5054, 5511, 5982, 6060, 6072, 6073, 6165	Ch. IV.....4744	3180.....4177
<b>20 CFR</b>	20.....4250	<b>36 CFR</b>	<b>Public Land Orders:</b>
209.....4364	25.....4250	7.....4574	1176 (Revoked in part by PLO 6923).....5987
259.....4365	156.....5931	<b>Proposed Rules:</b>	3160.....5211
404.....3937	301.....4250, 4937, 5931, 6061, 6073	7.....4592	6919.....5211
<b>21 CFR</b>	602.....5054, 6060	62.....4592	6921.....4144
177.....3938, 5294	<b>Proposed Rules:</b>	<b>38 CFR</b>	6922.....4856
510.....5052	1.....4913, 4942, 5101, 5122, 5399, 5409, 5993, 6060, 6082, 6166	14.....4088	6923.....5987
520.....4718, 5052	25.....4278	17.....4367	<b>44 CFR</b>
522.....5052, 5295	301.....5993	19.....4088	<b>Proposed Rules:</b>
556.....5052	<b>27 CFR</b>	20.....4088	67.....5510
558.....5052-5210, 6072	<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	<b>45 CFR</b>
720.....5210	9.....4942	1.....3975	235.....5048
1302.....5817	<b>28 CFR</b>	19.....4131	Ch. XXV.....5298
1308.....5818	<b>Proposed Rules:</b>	20.....4131	<b>46 CFR</b>
<b>Proposed Rules:</b>	16.....3974	<b>39 CFR</b>	515.....4578
Ch. I.....5241	<b>29 CFR</b>	111.....5778, 5858	560.....4578
5.....5395	102.....4157	<b>40 CFR</b>	572.....4578
10.....5048, 6081	500.....5942	1.....5320	580.....3950
12.....5048, 6081	1627.....4158	3.....5320	581.....3950
16.....5048, 6081	2619.....5048, 5381	17.....5320	583.....3950
20.....5048, 5396, 6081	2676.....5382	22.....4316, 5320	<b>Proposed Rules:</b>
100.....5397	<b>Proposed Rules:</b>	27.....5320	Ch. I.....4744
101.....5395, 5396, 5398	1910.....4858	51.....3941	Ch. II.....4744
105.....5395	<b>30 CFR</b>	52.....3941, 3946, 4158, 4367	Ch. III.....4744
226.....6082	<b>Proposed Rules:</b>	57.....5320	<b>47 CFR</b>
500.....5048, 6081	795.....3975	60.....5320, 5388	43.....5510
510.....5048, 6081, 6082	816.....4085	61.....5388	63.....5510
511.....5048, 6081	817.....4085	62.....4737	64.....4373, 4740, 5391
514.....5048, 6081, 6082	870.....3975	66.....5320	69.....4856
<b>23 CFR</b>	872.....3975	85.....5320	73.....3951, 3952, 4163, 4857, 5391-5394, 5861, 5862, 6074-6076
<b>Proposed Rules:</b>	873.....3975	86.....5320	<b>Proposed Rules:</b>
Ch. I.....4744	874.....3975	114.....5320	2.....5993
Ch. II.....4744	875.....3975	123.....5320	63.....4391
Ch. III.....4744	876.....3975	124.....5320	73.....3982, 4179, 4180, 4859, 5412, 5413, 5870, 6083, 6084
625.....4941	886.....3975	164.....5320	74.....4592
<b>24 CFR</b>	943.....5983	180.....4368, 5389	90.....4180
888.....4156	<b>32 CFR</b>	209.....5320	<b>48 CFR</b>
905.....4282, 5514	155.....5383	222.....5320	211.....4741
968.....5514	286.....5388	223.....5320	
990.....4282, 5514	287.....5388	233.....5320	
3280.....3941	287a.....6074	264.....5859	
<b>Proposed Rules:</b>		265.....5859	
0.....3967		271.....4370, 4371, 4738	
		272.....4161	
		403.....5320	



249.....	6076
252.....	4741
515.....	5862
538.....	5862
570.....	4939
701.....	5234
705.....	5234
706.....	5234
731.....	5234
749.....	5234
752.....	5234
1816.....	4912

**Proposed Rules:**

31.....	4181
Ch. 12.....	4744

**49 CFR**

571.....	4086
572.....	4086
1121.....	5237

**Proposed Rules:**

Subtitle A.....	4744
Ch. I.....	4744
Ch. II.....	4744
Ch. III.....	4744
Ch. IV.....	4744
Ch. V.....	4744
567.....	3983
568.....	3983
571.....	4594
Ch. VI.....	4744
1035.....	5123
1141.....	4594
1332.....	5413

**50 CFR**

17.....	5988
611.....	3952
620.....	5078
625.....	4248
642.....	4376
650.....	4377
657.....	5238
672.....	3960, 4085, 4939
675.....	3952, 4085, 5238

**Proposal Rules:**

17.....	4745, 4747, 4912, 5511, 5871
641.....	5994

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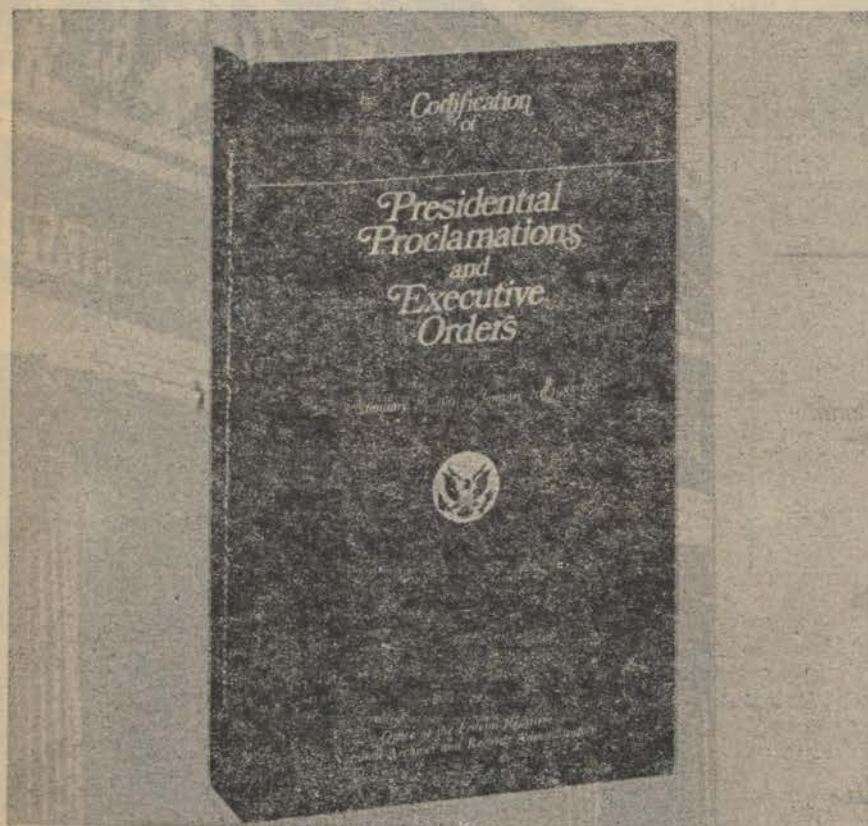
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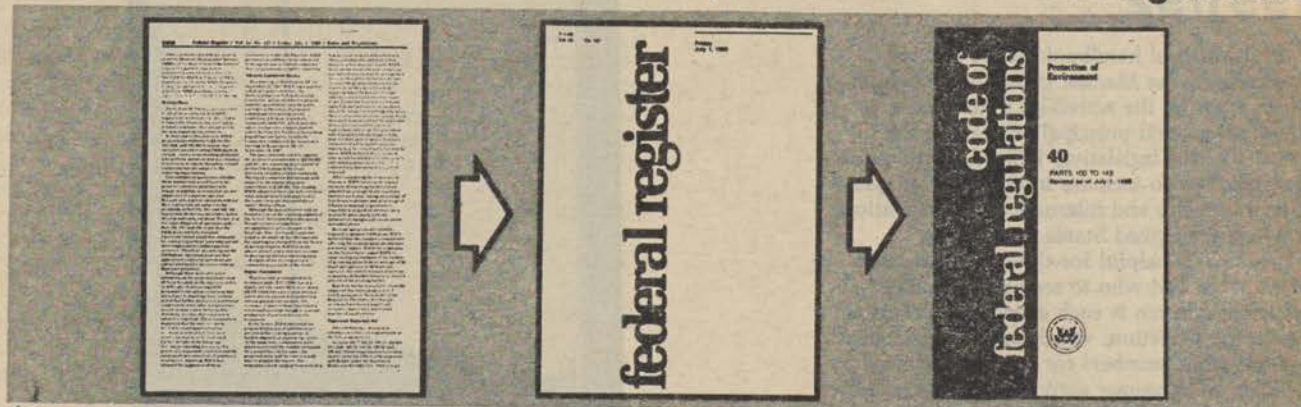
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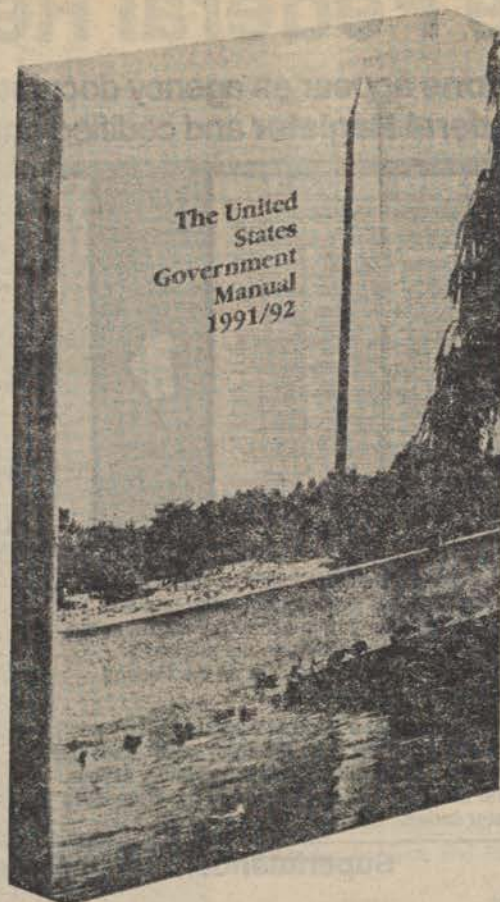
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